

Appendix B

Final 2001 Supplemental EA

**Supplemental Environmental Assessment for the
2001 Renewal of Interim Water Service Contracts
Through February 28, 2002**

Central Valley Project, California

February 2001

Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, California 95825-1898



CHAPTER 1

PURPOSE AND NEED

1.1 INTRODUCTION

In accordance with Section 3404(c) of the Central Valley Project Improvement Act (CVPIA), the Bureau of Reclamation (Reclamation) proposes to execute interim water service contracts for a maximum period of one year, from March 1, 2001 through February 28, 2002. Reclamation has prepared this supplemental EA to determine if any actions occurring from an extended interim period result in any unanticipated impacts relative to the analysis in the 1994 EA, the 1998 Supplemental EA, and the 2000 Supplemental EA. Interim renewal of these contracts is necessary to continue delivery of Central Valley Project (CVP) water until the long-term contracts can be executed. Contracts proposed for interim renewal are listed in Table 1.1.

The environmental analysis was developed consistent with regulations and guidance from the Council on Environmental Quality, and in conformance with the analysis provided in *NRDC v. Patterson*, Civ. No. S-88-1658 (Patterson). In *Patterson* the Court found that "...[on]going projects and activities require NEPA procedures only when they undergo changes amounting in themselves to further 'major action'." In addition the court went further to state that the NEPA statutory requirement applies only to those changes. The analysis in this supplemental and incorporated EAs finds in large part that the interim renewal of the contracts is in essence a continuation of the "status quo," that is, they perpetuate the existing use and allocation of resources (i.e., the same amount of water is being provided to the same lands for existing/ongoing purposes).

The 2000 Supplemental EA is included in Appendix A and the 1995 EA and the 1998 Supplemental EA are incorporated by reference and available by

request. This 2001 Supplemental EA provides only the sections that have updated information, additional discussions, or changes to tables from the 2000 Final Supplemental EA.

1.3 BACKGROUND OF INTERIM CONTRACTS

Table 1.1
2001 Interim Renewal Contracts
Central Valley Project
February 1, 2001

| Division/Unit/Contractor | Existing Contract Number | Contract Quantity (acre-feet) | Authorized Water Use | |
|---|--------------------------|-------------------------------|----------------------|------------------------|
| | | | Agricultural | Municipal & Industrial |
| American River Division | | | | |
| San Juan Water District | 14-06-200-152A-IR4 | 11,200 | | X |
| El Dorado Irrigation District | 14-06-200-949-IR4 | 23,000 | X | X |
| Cross Valley Canal | | | | |
| Fresno, County of | 14-06-200-8292A-IR4 | 3,000 | X | X |
| Hills Valley Irrigation District | 14-06-200-8466A-IR4 | 3,346 | X | X |
| Kern-Tulare Irrigation District | 14-06-200-8601A-IR4 | 40,000 | X | X |
| Lower Tule River Irrigation District | 14-06-200-8237A-IR4 | 31,102 | X | X |
| Pixley Irrigation District | 14-06-200-8238A-IR4 | 31,102 | X | X |
| Rag Gulch Water District | 14-06-200-8367A-IR4 | 13,300 | X | X |
| Tri-Valley Water District | 14-06-200-8565A-IR4 | 1,142 | X | X |
| Tulare, County of | 14-06-200-8293A-IR4 | 5,308 | X | X |
| Delta Division/Delta-Mendota Canal | | | | |
| Banta-Carbona Irrigation District | 14-06-200-4305A-IR4 | 25,000 | X | X |
| Broadview Water District | 14-06-200-8092-IR4 | 27,000 | X | X |
| Centinella Water District | 7-07-20-W0055-IR4 | 2,500 | X | X |
| Del Puerto Water District | 14-06-200-922-IR6 | 140,210 | X | X |
| Eagle Field Water District | 14-06-200-7754-IR4 | 4,550 | X | X |
| Laguna Water District | 2-07-20-W0266-IR4 | 800 | X | X |
| Mercy Springs Water District | 14-06-200-3365A-IR4A | 7,040 | X | X |
| Oro Loma Water District | 14-06-200-7823-IR4 | 4,600 | X | X |
| Patterson Water District | 14-06-200-3598A-IR4 | 16,500 | X | X |
| Plain View Water District | 14-06-200-785-IR6 | 20,600 | X | X |
| West Side Irrigation District, The | 7-07-20-W0045-IR4 | 7,500 | X | X |
| West Stanislaus Irrigation District | 14-06-200-1072-IR6 | 50,000 | X | |
| Widren Water District | 14-06-200-8018-IR4 | 2,990 | X | X |
| Friant Division | | | | |
| Lewis Creek Water District | 14-06-200-1911A-IR2 | 1,450 | X | |
| Madera, County of | 14-06-200-2406A-IR4 | 200 | | X |

Table 1.1 (Continued)
2001 Interim Renewal Contracts
Central Valley Project
February 1, 2001

| Division/Unit/Contractor | Existing Contract Number | Contract Quantity (acre-feet) | Authorized Water Use | |
|---|--------------------------|-------------------------------|----------------------|------------------------|
| | | | Agricultural | Municipal & Industrial |
| Sacramento River Division/Corning Canal | | | | |
| Corning Water District | 14-06-200-6575-IR4 | 23,000 | X | X |
| Proberta Water District | 14-06-200-7311-IR4 | 3,500 | X | X |
| Thomes Creek Water District | 14-06-200-5721A-IR4 | 6,400 | X | X |
| Sacramento River Division | | | | |
| Feather Water District | 14-06-200-171A-IR5 | 20,000 | X | |
| Sacramento River Division/ Tehama-Colusa Canal | | | | |
| Colusa County Water District | 14-06-200-304-A-IR4 | 62,200 | X | X |
| Colusa, County of | 14-06-200-8310A-IR4 | See Subcontractors below | | |
| Four-M Water District | | 5,700 | X | X |
| Glenn Valley Water District | | 1,730 | X | X |
| Holthouse Water District | | 2,450 | X | X |
| Myers Marsh Mutual Water Company | | 255 | X | X |
| LaGrande Water District | | 2,200 | X | X |
| Cortina Water District | | 1,700 | X | X |
| Westside Water District | | 40,000 | X | X |
| Colusa County Water District | | 5,965 | X | X |
| Davis Water District | 14-06-200-6001A-IR4 | 4,000 | X | X |
| Dunnigan Water District | 14-06-200-399A-IR4 | 19,000 | X | X |
| Glide Water District | 7-07-20-W0040-IR4 | 10,500 | X | X |
| Kanawha Water District | 14-06-200-466-A-IR4 | 45,000 | X | X |
| Kirkwood Water District | 7-07-20-W0056-IR4 | 2,100 | X | X |
| La Grande Water District | 7-07-20-W0022-IR4 | 5,000 | X | X |
| Orland-Artois Water District | 14-06-200-8382A-IR4 | 53,000 | X | X |
| Westside Water District | 14-06-200-8222-IR4 | 25,000 | X | X |
| Shasta Division | | | | |
| Shasta Lake, City of | 4-07-20-W1134-IR6 | 2,750 | | X |
| Trinity Division | | | | |
| Bella Vista Water District | 14-06-200-851-A-IR5 | 24,000 | X | X |
| Clear Creek CSD | 14-06-200-489-A-IR5 | 15,300 | X | X |

1.4 PURPOSE AND NEED FOR ACTION

The purpose of the proposed action is to execute interim contracts for a maximum of one year, from March 1, 2001 through February 28, 2002. Execution of interim contracts is needed to continue delivery of Central Valley Project (CVP) water to interim contractors until the long-term contracts can be executed.

1.5 ISSUES RELATED TO CVP WATER USE UNDER THE PROPOSED INTERIM CONTRACTS

1.5.2 Interim Water Contract Service Areas

No changes to district boundaries are part of the proposed action. Appropriate environmental compliance and documentation will be completed for any request from interim contractors for Reclamation approval of boundary changes.

1.5.3 Water Transfers

Widren Water District Assignment: Assignment of water from the Widren Water District to the City of Tracey has been considered in the past and a proposal was developed. In April 2000, however, the Widren Water District withdrew its request for the assignment, and all work regarding this assignment ceased. Should Widren Water District seek another assignment of its contract, another proposal for assignment would be presented to Reclamation and Reclamation would conduct a separate environmental review.

1.6 PUBLIC INVOLVEMENT

The public was invited to review and comment on the draft 2001 Supplemental EA for an 18-day review period. During the public review process, 3 written comment letters were received. Appendix D provides a copy of each letter with Reclamation's response.

CHAPTER 2

ALTERNATIVE

2.1 PROPOSED ACTION ALTERNATIVE

The proposed action evaluated in this document is execution of interim water service contracts identified in Table 1.1. Except for minor changes, terms and conditions of interim contracts will remain the same as those executed for 2000 to 2001. The execution of the interim contracts entails only minor administrative changes to the existing interim contract provisions as shown in Table 2.1. This alternative is comparable to alternative 1, continuation of existing interim contracts, in the 2000 Supplemental EA. The period of renewal for each contract would be for a maximum of one year, as permitted under subsection 3404(c)(1) of CVPIA.

Table 2.1
Proposed Contract Provisions Changes for the Proposed Action

| Contract Provision Description | | Alternative |
|--------------------------------|--|---|
| A. | Contract term | Contract renewal period would be extended through February 2002 |
| B. | Contract supply | No change |
| C. | Payment | No change |
| D. | Water transfer | No change |
| E. | Water quality | No change |
| F. | Water measurement | No change |
| G. | Water conservation | No change |
| H. | Water shortage | No change |
| I. | Discretionary provisions of the Reclamation Reform Act | No change |
| J. | Endangered Species Act compliance | No change |
| K. | Standard articles | No change |

The current contract provisions are those that are included in the existing interim renewal contracts and specified in the 1994 EA, the 1998 Supplemental EA, and the 2000 Supplemental EA. Revised contract provisions for the 2001 interim contracts include the following:

1. TERM OF CONTRACT - RIGHT TO USE WATER, Article 2.(a)

The interim renewal period under the Alternative would be for the period from March 1, 2001 through February 28, 2002.

2. TERM OF CONTRACT - RIGHT TO USE WATER, Article 2.(a)

Deletion of the statement on the completion of the programmatic environmental impact statement (PEIS) required by section 3409 of the CVPIA.

3. TERM OF CONTRACT - RIGHT TO USE WATER, Article 2.(b)(1)

Editorial changes and updates to reflect new dates and contract period related to long-term contract negotiations and execution.

4. TERM OF CONTRACT - RIGHT TO USE WATER, Article 2.(b)(2)

Editorial changes and updates to reflect new dates and contract period if no reasonable likelihood of reaching agreement on the terms of a long-term contract renewal prior to November 1, 2001.

2.1.2 Alternative 2, Interim Renewal of Contracts under Revised Terms

Alternative 2 from the 2000 supplemental EA was not evaluated in the 2001 supplemental EA.

2.2 ALTERNATIVES CONSIDERED BUT ELIMINATED FROM FURTHER ANALYSIS

2.2.1 Nonrenewal of Interim Contracts

Nonrenewal of existing contracts is considered infeasible based on Section 3404(c) of the CVPIA. This alternative was considered but eliminated from analysis in this EA because Reclamation has no discretion not to renew the contracts.

2.2.2 Reduction in Interim Contract Amounts

Reduction in contract amounts was considered in certain cases, but rejected from analysis. The reason for this is twofold. First, water needs analyses have been completed for all contracts, and in almost all cases, the needs exceed or equal the current total contract amount. Second, in order to implement good water management, the contractors need to be able to store or immediately use water available in wetter years when more water is available. By quantifying contract amounts in terms of the needs analyses and the CVP delivery capability, the contractors can make their own economic decisions. Allowing the contractors to retain the full water quantity gives them assurance that the water will be available to them for storage investments. In addition the CVPIA, in and of itself, achieves a balance, in part through its dedication of significant amounts of CVP water and actions to acquire water for environmental purposes.

CHAPTER 3

AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

The second paragraph in Chapter 3 is changed to read as follows:

Potential impacts arising from future assignments of water are not included in the proposed action alternative and must comply with the National Environmental Policy Act, and therefore, are not addressed in the document.

3.3 BIOLOGICAL RESOURCES

3.3.1 ALTERNATIVE

The second paragraph from the 2000 Supplement EA is revised as follows:

Current measures to address biological concerns would continue under interim renewal. Several programs provided for in the CVPIA would continue, including land retirement, refuge water supplies, the anadromous fish restoration program, annual dedication of CVP yield under Section 3406(b)(2), and the Section 3406(b)(1) "other" program, which would protect, restore, and enhance the biological resources within the CVP service area. Reclamation and USFWS also would continue to implement the long-term CVP-wide Conservation Program (CVPCP) which, in concert with other programs, would address the needs of special status species in the affected area, including habitat. The CVPCP establishes implementing plans and priority needs before identifying ecological

needs, options, and actions for implementation. However, the CVPCP does not provide site specific ESA coverage, is not mitigation for any site specific impacts, and does not address or authorize take of listed species.

The fifth paragraph from the 2000 Supplement EA is revised as follows:

CVP-wide impacts to biological resources have been evaluated in the PEIS, and a FWS Biological Opinion to address potential CVP-wide impacts was completed on November 21, 2000. The programmatic biological opinion and Essential Fish Habitat Conservation Recommendations prepared by NMFS for the CVPIA was completed on November 14, 2000.

The following paragraph is included at the end of this section:

Appendix C of the 2001 final Supplemental EA contains the 3rd Quarterly Report for the 2000 interim contracts Biological Opinion on the various environmental commitments made and Reclamation's progress in implementing them. The current FWS Biological Opinion for 2001 interim contracts will be included in the Final 2001 Supplemental EA and presents the commitments that Reclamation will undertake during the proposed interim renewal period to address potential impacts.

CHAPTER 4

CONSULTATION AND COORDINATION

4.1 ENDANGERED SPECIES ACT

Reclamation has completed consultation with NMFS and FWS pursuant to the ESA. The Biological Opinion was extended to cover the interim renewal from February 1995 through February 2002. The 3rd quarter report for Year 2000 is included in Appendix C of this supplemental EA. Since the renewal of the interim 2000 contracts, additional species in the action area have been listed. These species include the riparian brush rabbit and riparian wood rat. Reclamation will continue to comply with commitments in the biological opinions for this action.

APPENDIX A

Final 2000 Supplemental EA

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**Final Supplemental Environmental Assessment for the
Renewal of 55 Interim Water Service Contracts
through February 28, 2001**

Central Valley Project, California



February 2000

Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, California 95825-1898

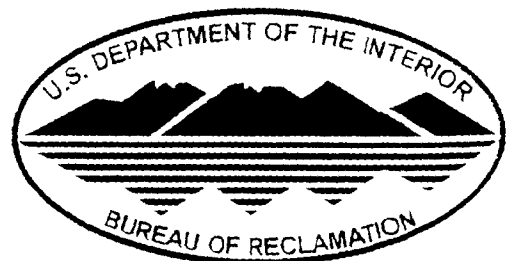


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SUMMARY SHEET

1. Proposed Federal Action: Approve 54 interim renewal contracts, with only minor administrative changes to the contract provisions, for a maximum of one year through February 28, 2001.
2. Date Filed: February 22, 2000
3. Applicant: Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, CA 95825
Attention: Michael Nepstead
Telephone: (916) 978-5204
FAX: (916) 978-5290
4. Authority: Section 3404(c) of the Central Valley Project Improvement Act (Title XXXIV of Public Law 102-575)
5. Reclamation Facility: Central Valley Project
6. Nearest City: Various in the Central Valley, California
7. County: Various in the Central Valley, California

1. INTRODUCTION

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CHAPTER 1

PURPOSE AND NEED

1.1 INTRODUCTION

In accordance with Section 3404(c) of the Central Valley Project Improvement Act (CVPIA), the Bureau of Reclamation (Reclamation) proposes to renew 54 water service contracts for a maximum period of one year, from March 1, 2000 through February 28, 2001. Interim renewal of these contracts is necessary to continue delivery of Central Valley Project (CVP) water until the long-term contracts can be executed. Contracts proposed for interim renewal are listed in Table 1 and are shown in figures 1-1, 1-2, 1-3, and 1-4. Two alternatives that would accomplish the proposed action are evaluated in this document.

1.2 MODIFICATION OF PROJECT DESCRIPTION

In the draft supplemental EA, Reclamation had proposed the renewal of 55 interim contracts, including renewal of a contract with the El Dorado Irrigation District for future delivery of 50 acre feet/year (af/y). The US Fish and Wildlife Service (USFWS) requested that this action be removed from the supplemental EA and evaluated in a separate NEPA review. Reclamation agreed to remove this contract from consideration in this supplemental EA. This final supplemental EA therefore evaluates interim renewal of 54 water service rather than the 55 evaluated in the draft supplemental EA.

1.3 BACKGROUND OF INTERIM CONTRACTS

Section 3409 of the CVPIA stipulates that Reclamation must prepare a programmatic environmental impact statement (PEIS) before renewing long-term CVP water service contracts. In addition, site-specific environmental documentation for long-term water contract renewals must be prepared following completion of the PEIS. In accordance with Section 3404(c) of the CVPIA, water contracts expiring prior to completion of the PEIS may be renewed for an interim period not to exceed three years and for successive interim periods not to exceed two years. Previous interim renewal of water service contracts has been necessary to allow for completion of the final PEIS.

Table 1
Interim Renewal Contracts
Central Valley Project

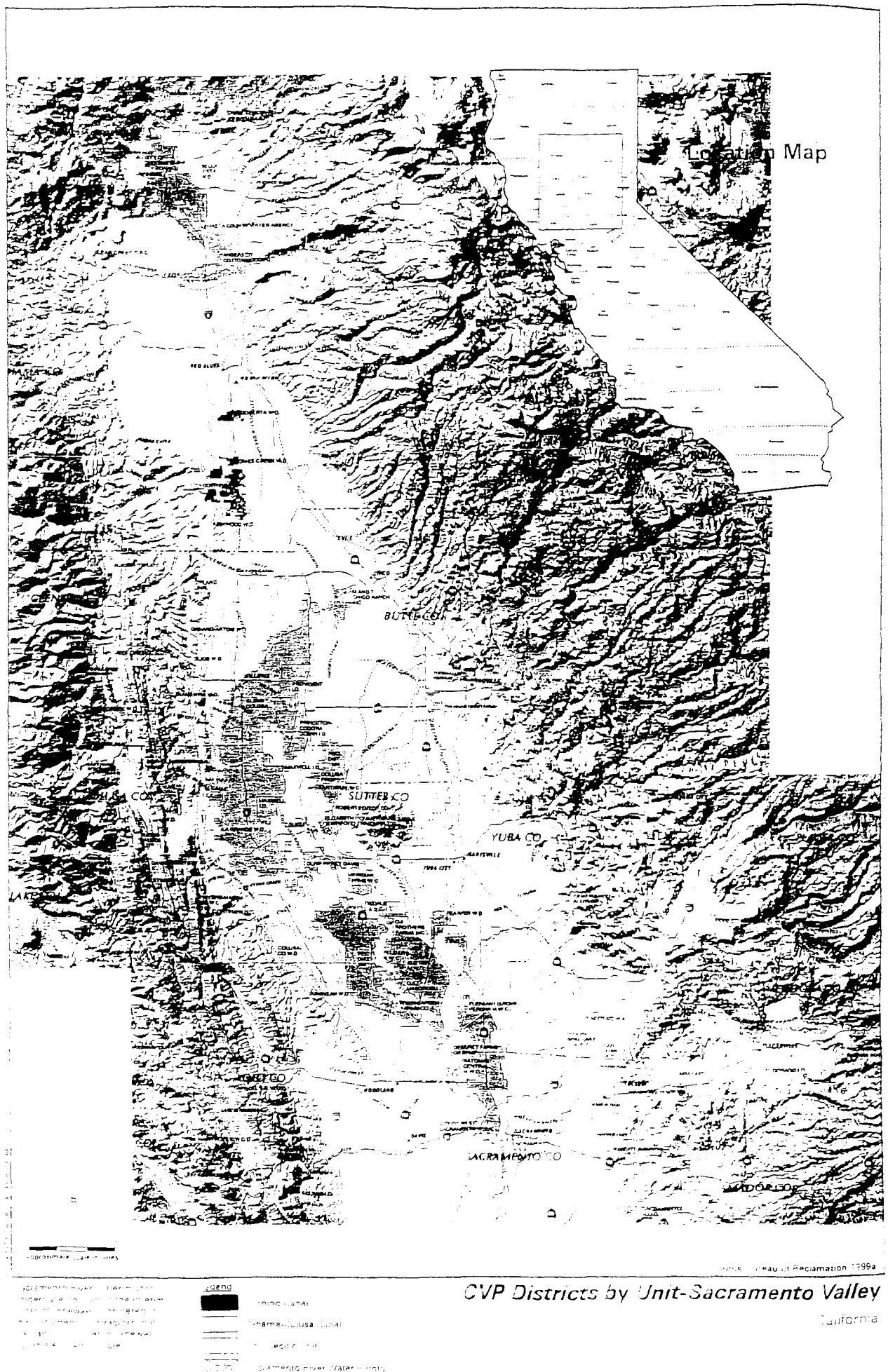
| Division/Unit/Contractor* | Contract Number | Contract Quantity (acre-feet) | Authorized Water Use | |
|--|---------------------|-------------------------------|----------------------|------------------------|
| | | | Agricultural | Municipal & Industrial |
| American River Division | | | | |
| San Juan WD | 14-06-200-152A-IR2 | 11,200 | | X |
| El Dorado ID | 14-06-200-949-IR2 | 23,000 | X | X |
| Buchanan Unit | | | | |
| Chowchilla WD | 14-06-200-3844A-IR4 | 24,000 | X | |
| Cross Valley Canal | | | | |
| Fresno, County of | 14-06-200-8292A-IR2 | 3,000 | X | X |
| Hills Valley ID | 14-06-200-8466A-IR2 | 3,346 | X | X |
| Kern-Tulare ID | 14-06-200-8601A-IR2 | 40,000 | X | X |
| Lower Tule River ID | 14-06-200-8237A-IR2 | 31,102 | X | X |
| Pixley ID | 14-06-200-8238A-IR2 | 31,102 | X | X |
| Rag Gulch WD | 14-06-200-8367A-IR2 | 13,300 | X | X |
| Tri-Valley | 14-06-200-8565A-IR2 | 1,142 | X | X |
| Tulare, County of | 14-06-200-8293A-IR2 | 5,308 | X | X |
| Delta Division/Delta-Mendota Canal | | | | |
| Banta-Carbona ID | 14-06-200-4305A-IR2 | 25,000 | X | X |
| Broadview WD | 14-06-200-8092-IR2 | 27,000 | X | X |
| Centinella WD | 7-07-20-W0055-IR2 | 2,500 | X | X |
| Del Puerto WD | 14-06-200-922-IR4 | 140,210 | X | X |
| Eagle Field WD | 14-06-200-7754-IR2 | 4,550 | X | X |
| Laguna WD | 2-07-20-W0266-IR2 | 800 | X | X |
| Mergy Springs WD | 14-06-20-3365A-IR2 | 13,300 | X | X |
| Oro Loma WD | 14-06-200-7823-IR2 | 4,600 | X | X |
| Patterson WD | 14-06-200-3598A-IR2 | 16,500 | X | X |
| Plain View WD | 14-06-200-785-IR4 | 20,600 | X | X |
| The West Side ID | 7-07-20-W0045-IR2 | 7,500 | X | X |
| West Stanislaus ID | 14-06-200-1072-IR4 | 50,000 | X | |
| Widren WD | 14-06-200-8018-IR2 | 2,990 | X | X |
| Friant Division | | | | |
| Arvin-Edison Water Storage District | 14-06-200-229A-IR2 | 351,675 | X | X |
| Fresno ID | 14-06-200-1122A-IR2 | 75,000 | X | X |
| Garfield WD | 14-06-200-9421-IR2 | 3,500 | X | |
| Fresno County Waterworks District No. 18 | 14-06-200-5904-IR2 | 150 | | X |
| International WD | 14-06-200-585A-IR2 | 1,200 | X | X |
| Lewis Creek WD | 14-06-200-1911A-IR2 | 1,450 | X | |
| Madera ID | 75r-2891-IR2 | 271,000 | X | |
| Orange Cove, City of | 14-06-200-5230-IR2 | 1,400 | | X |
| Shafter-Wasco ID | 14-06-200-4032-IR2 | 89,600 | X | X |
| Tea Pot Dome WD | 14-06-200-7430-IR2 | 7,500 | X | |
| Gravelly Ford WD | 7-07-20-W0242-IR2 | 14,000 | X | |
| Madera, County of | 14-06-200-2406A-IR2 | 200 | | X |
| Hidden Unit | | | | |
| Madera ID | 14-06-200-4020-IR3 | 24,000 | X | |

* WD - Water District
ID - Irrigation District

Table 1
Interim Renewal Contracts
Central Valley Project (continued)

| Division/Unit/Contractor ^a | Contract Number | Contract Quantity (acre-feet) | Authorized Water Use | |
|---|----------------------|-------------------------------|----------------------|------------------------|
| | | | Agricultural | Municipal & Industrial |
| Sacramento River Division/Corning Canal | | | | |
| Corning WD | 14-06-200-6575-IR2A | 23,000 | X | X |
| Proberta WD | 14-06-200-7311-IR2A | 3,500 | X | X |
| Thomes Creek WD | 14-06-200-5721A-IR2A | 6,400 | X | X |
| Sacramento River Division | | | | |
| Feather WD | 14-06-200-171A-IR3 | 20,000 | X | |
| Sacramento River Division/ Tehama-Colusa Canal | | | | |
| Colusa County WD | 14-06-200-304-A-IR2 | 62,200 | X | X |
| Colusa, County of | 14-06-200-8310A-IR2 | See Subcontractors below | | |
| 1 Four-M WD | | 5,700 | X | X |
| 2 Glenn Valley WD | | 1,730 | X | X |
| 3 Holthouse WD | | 2,450 | X | X |
| 4 Myers Marsh Mutual Water Company | | 255 | X | X |
| 5 LaGrande WD | | 2,200 | X | X |
| 6 Cortina WD | | 1,700 | X | X |
| 7 Westside WD | | 40,000 | X | X |
| 8 Colusa County WD | | 5,965 | X | X |
| Davis WD | 14-06-200-6001A-IR2 | 4,000 | X | X |
| Dunnigan WD | 14-06-200-399A-IR2 | 19,000 | X | X |
| Glide WD | 7-07-20-W0040-IR2 | 10,500 | X | X |
| Kanawha WD | 14-06-200-466-A-IR2 | 45,000 | X | X |
| Kirkwood WD | 7-07-20-W0056-IR2 | 2,100 | X | X |
| La Grande WD | 7-07-20-W0022-IR2 | 5,000 | X | X |
| Oriand-Artois WD | 14-06-200-8382A-IR2 | 53,000 | X | X |
| Westside WD | 14-06-200-8222-IR2 | 25,000 | X | X |
| Shasta-Trinity Division | | | | |
| Shasta Lake, City of | 4-07-20-W1134-IR4 | 2,750 | | X |
| Bella Vista WD | 14-06-200-851-A-IR3 | 24,000 | X | X |
| Clear Creek CSD | 14-06-200-489-A-IR3 | 15,300 | X | X |

* WD - Water District
ID - Irrigation District



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-0070XIMATE SCALE IN FATHOMS

Contractors that are part of this interim renewal action are listed in Table 3.

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1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 26

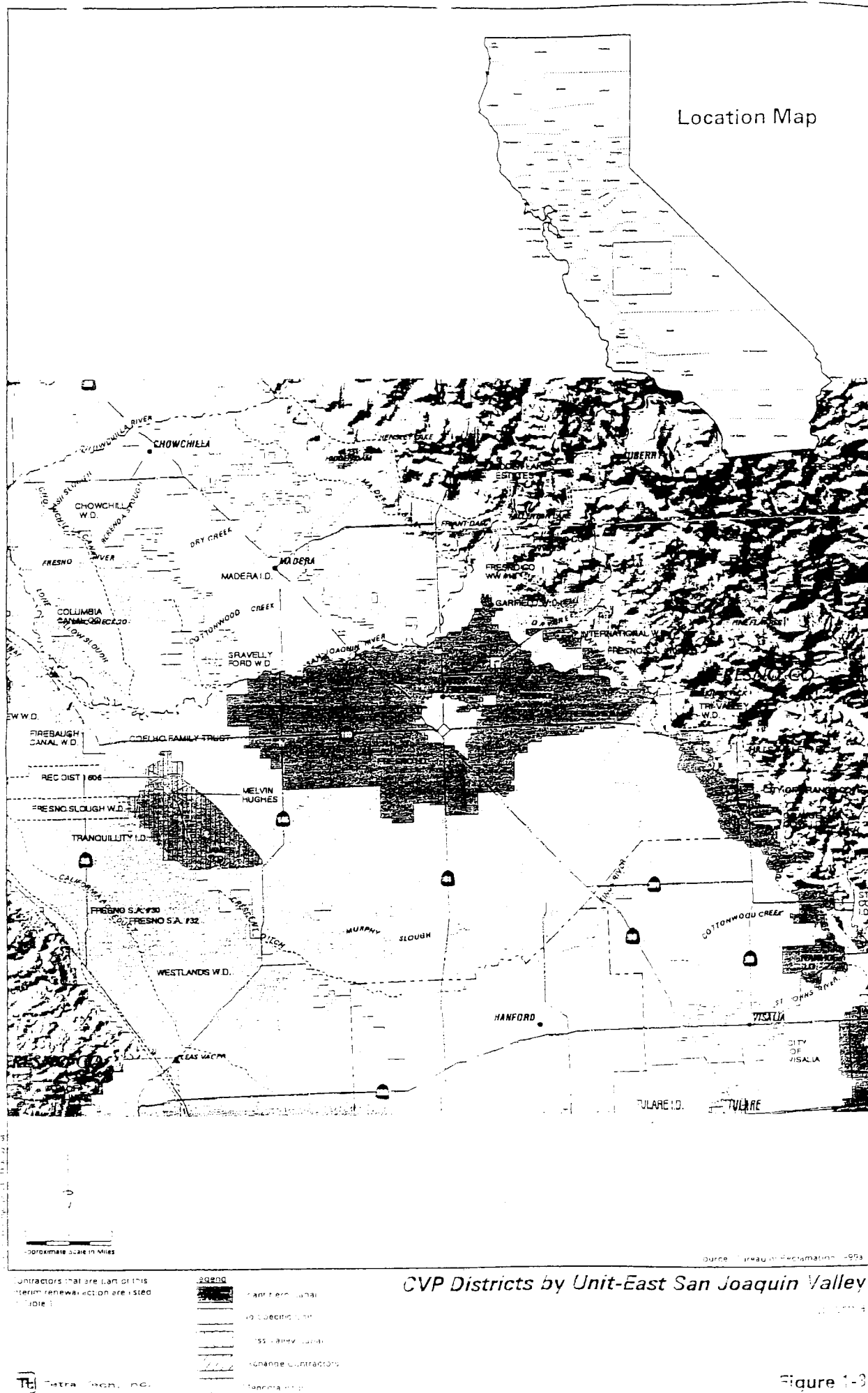
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Source: Bureau of Reclamation 1999a.

CVP Districts by Unit-West San Joaquin Valley

California



Reclamation initially prepared an environmental assessment (EA) in December 1994 (1994 EA) to examine the potential effects of interim renewal of 67 water service contracts from December 1994 through February 1998 (a period of three years and two months) (Bureau of Reclamation 1994). A finding of no significant impact (FONSI) for that EA was issued in December 1994. The 1994 EA and FONSI are hereby incorporated by reference.

Reclamation completed a supplemental EA in February 1998 (1998 supplemental EA) to address potential impacts from interim renewal of the 54 contracts for an additional two years, from March 1998 through February 2000 (Bureau of Reclamation 1998). The 67 contracts considered in the 1994 EA were reduced to 54 through consolidation, termination, or assignment. A FONSI for the 1998 supplemental EA was issued in February 1998.

The final PEIS was issued in October 1999 (Bureau of Reclamation 1999b). Because the interim contracts will expire in February 2000, before long-term contracts can be executed, another interim renewal period is necessary.

1.4 PURPOSE AND NEED FOR ACTION

The purpose of the proposed action is to renew 54 interim contracts for a maximum of one year, through February 28, 2001. This action is necessary to provide continued water delivery to existing interim CVP contractors until long-term water contract renewals can be executed.

Reclamation has prepared a supplemental EA to determine if any actions occurring from an extended interim period result in any unanticipated impacts relative to the analysis in the 1994 EA or the 1998 supplemental EA. This supplemental EA has been prepared pursuant to and in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 USC § 4321-4370d), the Council on Environmental Quality (CEQ) regulations on implementing NEPA (40 CFR Parts 1500-1508), and Reclamation's NEPA handbook (Bureau of Reclamation 1990).

1.5 ISSUES RELATED TO CVP WATER USE UNDER THE PROPOSED INTERIM CONTRACTS

Several matters related to the use of CVP water supplies, including the agricultural or municipal and industrial (M&I) designation of CVP water contractors, the water contract service area, and water transfers, are discussed below. Although the interim renewal action evaluated in this document does not propose any changes with regard to these issues, they are discussed herein to illustrate the separate nature of these issues and the proposed action in terms of environmental analysis and consultation with USFWS. (See Appendix C for correspondence between Reclamation and USFWS regarding these issues.) Any change with regard to these issues that may be proposed during the period of interim renewal would be considered to be a separate action and would be subject to separate environmental review and consultation.

1.5.1 Contract Changes from Agricultural to Agricultural and Municipal and Industrial

Since 1995, no interim contracts have been changed from agricultural to agricultural and M&I. During this period, Reclamation and the water service contractors have been required to report to USFWS any land use changes associated with the interim water contracts that may affect listed species. All land use changes within the interim water contract areas that may affect listed species, and that were reported to Reclamation, have been reported to USFWS in the four annual reports on implementation of the biological opinion for interim renewal contracts (Appendix A).

1.5.2 Interim Water Contract Service Areas

The service areas for all interim water contracts have not changed since 1995 except for inclusions and exclusions that were separately reviewed under NEPA and the Endangered Species Act (ESA). No changes to district boundaries are part of the proposed action and the boundaries in place, as of the date of this document, will remain the same through February 28 2001. Any changes to the interim district boundaries that are proposed would be required to undergo separate environmental review.

1.5.3 Water Transfers

Intra-CVP Transfers. Intra-CVP contract transfers, which in many cases are simply scheduling changes, are part of the historic and ongoing operation of the CVP. Water transfers are being addressed in separate EAs being prepared by Reclamation in coordination with the USFWS. All such transfers will be conducted in conformance with the criteria developed during this process and are considered to be separate actions that must undergo separate environmental review, including consultation with the USFWS.

Mercy Springs Water District Assignment. On May 14, 1999, the Mercy Springs Water District, an interim contractor, assigned 6,260 af of its CVP supply to the Pajara Valley Water Management Agency (PVWMA), Santa Clara Valley Water District (SCVWD), and Westlands Water District. PVWMA entered into this assignment to help secure possible future water supplies but, at present, PVWMA does not have the physical capability to take the assigned water and is not within the CVP authorized place of use. These issues must both be addressed as separate actions, subject to separate environmental review, before PVWMA could take any of the assigned water.

Under the terms of the assignment, until PVWMA decides to use the water (a decision expected in the next 20 years), the water would be shared between the Westlands Water District and SCVWD, with SCVWD taking no more than about 1,500 af of this amount annually, and no more than 20,000 af over the period of the agreement. SCVWD took none of this water in 1999.

Since deliveries in 2000 are expected to be approximately 50 percent of contract quantity for agricultural supplies and 75 percent of contract quantity for M&I supplies, assigned water from the Mercy Springs Water District will be used to address the projected shortages. Westlands Water District is expected to receive only approximately 40 percent of its CVP contract amount in 2000. The portion of the Mercy Springs water assigned to Westlands Water District would constitute only a small percentage of Westlands own CVP allocation and would partially offset their expected CVP deficiency. An EA analyzing the potential impacts of this assignment was completed in April 1999 (Bureau of Reclamation 1999c). The EA determined that the proposed action would not result in any significant impacts, and a FONSI was issued in April 1999.

Apart from this assignment, an allocation agreement was entered into between Reclamation, Westlands Water District, and SCVWD in 1997 whereby Westlands Water District and SCVWD were able to reallocate CVP water supplies under certain conditions. Required NEPA and ESA compliance were completed on this separate action.

Widren Water District Assignment. Assignment of water from the Widren Water District to the area of Tracy has been considered in the past and a proposal was developed. As a result of on-going litigation between local, non-federal interests regarding this assignment, no final action has been taken by Reclamation. This action has been suspended until the dispute has been resolved. No action is expected in the immediate future. Should the issues under question be resolved and a proposal for assignment be presented to Reclamation, Reclamation would initiate consultation with USFWS to address concerns about potential impacts to listed species. Evaluation of this action and consultation with USFWS would be conducted as part of a separate environmental review process.

Atwell Irrigation District/Hills Valley Irrigation District Reallocation. In 1975, a contract was executed with Tulare County, a cross-valley contractor, to allow reallocation of their CVP supply to specific subcontractors within Tulare County. Reclamation approved the initial set of subcontractors and, since that time, there have been no changes in the subcontractors. Consequently, the area of water use for Tulare County's CVP supply has not changed, relative to the interim biological opinion, since 1995. Any changes in the boundaries of the area of water use, or any additions or deletions of subcontractors, would require federal approval. Tulare County's distribution of its CVP water supply between these subcontractors is not a federal action and does not require federal approval. Tulare County is required to notify Reclamation of any changes in the allocation. There have been no changes in CVP operations, the total amount of water under contract to Tulare County, or the Tulare County subcontract areas since Reclamation consulted on the interim contracts in 1995.

In 1996, consistent with the 1975 contract, 2,000 ac of Atwell Irrigation District's supply of CVP water was reallocated to the Hills Valley Irrigation District.

Consistent with the 1975 contract, the 2,000 af that Hills Valley Irrigation District obtained under this reallocation must stay within the Tulare County portion of Hills Valley Irrigation District. No land use changes as a result of this reallocation have been reported to Reclamation and all information to date indicates that the 2,000 af is being used to replace less desirable ground water supplies.

Friant Division Water Deliveries. In addition to other CVP supplies, the Friant Division will also experience severe shortages in 2000 as a result of hydrologic conditions in the watershed for the Friant Dam. At present, the projected 2000 allocation for the Friant Division is 60 percent of Class 1 water and no Class 2 water, or approximately 34 percent of the average use and 22 percent of the contract amount for the Friant Division. No changes in the allocation to the Friant Division are considered as part of this action. This information is provided to address concerns that the USFWS may have about potential impacts related to water deliveries this year in the Friant Division.

1.6 PUBLIC INVOLVEMENT

The public was invited to review and comment on the draft supplemental EA. The draft supplemental EA was circulated for public and agency review from December 13, 1999, to January 10, 2000. A press release announcing the publication was sent to all interested parties on December 9, 1999. The release of the draft supplemental EA also was announced on the Bureau of Reclamation, Mid-Pacific Region web page and at meetings being conducted by Reclamation for proposed renewal of long-term water service contracts.

The public comment period provided an opportunity for the public to review the issues addressed in the impact analysis and to offer comments on any aspect of the process. During the public review process, written comment letters were received from three water districts. The majority of these comments expressed support for Alternative 1 and concern about significant impacts that may occur under Alternative 2 (see Section 2.1 for a discussion of alternatives). Comments received on the draft supplemental EA and responses to these comments are provided Appendix B.

2. ALTERNATIVES

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CHAPTER 2

ALTERNATIVES

2.1 PROPOSED ACTION AND ALTERNATIVES

The proposed action evaluated in this document is interim renewal of 54 water service contracts. Two alternatives are evaluated that would accomplish the proposed action. Alternative 1 provides for renewal of the 54 water service contracts with only minor administrative changes to the contract provisions. Alternative 2 provides for renewal of the 54 water service contracts, but with specific changes in the contract provisions. The differences in the contract provisions are summarized in Table 2 and are discussed in detail for each alternative (see sections 2.1.1 and 2.1.2). Both alternatives include renewal of the 54 water service contracts analyzed in the 1994 EA and the 1998 supplemental EA. The Mercy Spring Water District contract, which has partially assigned its CVP water supply to PVWMA, SCVWD, and Westlands Water District, is one of the 54 contracts considered under both alternatives.

For purposes of this supplemental EA, the following assumptions are made:

- A. Each interim contract renewal is considered to be a separate action;
- B. A one-year interim renewal period is considered in the analysis, though contracts may be renewed for a shorter period; and
- C. The environmental commitments in existence as a result of the 1994 EA are to continue during the extended interim period.

2.1.1 Alternative 1, No Action Alternative

Alternative 1 is the continuation of the existing interim contracts with only minor administrative changes to the contract provisions. The period of renewal for each contract would be for a maximum of one year, as permitted under subsection 34C4(c)(1) of CVPIA. Alternative 1 is considered to be the No Action Alternative.

Table 2
Proposed Contract Provisions for Alternatives 1 and 2

| Contract Provision Description | | Alternative 1 | Alternative 2 |
|--------------------------------|--|--|---|
| A. | Contract term | Contract renewal period would be for no more than one year | Contract renewal period would be for no more than one year |
| B. | Contract supply | No change | Conditional approval for out-of-district water banking. Water supply based on Category 1 and Category 2 water. |
| C. | Payment | No change | 80/10/10 tiered pricing based on Category 1 water supply. Annual or semiannual payment for water, in advance of delivery. |
| D. | Water transfer | No change | No change |
| E. | Water quality | No change | No change |
| F. | Water measurement | No change | No change |
| G. | Water conservation | No change | Contractors shall use incentive pricing rather than an internal tiered pricing program. |
| H. | Water shortage | No change | No change |
| I. | Discretionary provisions of the Reclamation Reform Act | No change | No change |
| J. | Endangered Species Act compliance | No change | No change |
| K. | Standard articles | No change | Contracts include all existing and future rules and regulations promulgated by the Secretary of Interior. |

based on guidance contained in the CEQ regulations for implementing NEPA, direction contained in CEQ's "Forty Most Asked Questions Concerning CEQ's NEPA Regulations," and Reclamation's NEPA handbook. Each of these sources indicate that, where ongoing actions are occurring and would be expected to continue in the absence of a proposed action, the no action alternative should be interpreted as continuing the current management and policy direction. In addition, a no action alternative involving non-renewal of existing contracts is considered infeasible, based on the contractors' right to request long-term contract renewal provided under the 1956 and 1963 Reclamation Project Acts (Pub. L. 84-643; Pub. L. 88-49) and subsequent interim renewal during preparation of the PEIS provided under Section 3404(c) of the CVPIA. The No Action Alternative is Reclamation's Preferred Alternative.

The current contract provisions are those that are included in the existing interim renewal contracts and specified in the 1994 EA and the 1998 supplemental EA. These contract provisions would remain the same in the subsequent interim renewal contracts under Alternative 1. Contract provisions include the following:

- A. Contract Term—Pursuant to Section 3404(c)(1) of the CVPIA, the initial term of the interim renewal contracts was for up to three years but subsequent renewals would be for up to two years. The interim renewal period under Alternative 1 would be no more than one year.
- B. Contract Supply—Beneficial uses of CVP supplies include agriculture, M&I, ground water recharge, and fish and wildlife. With the exception of water made available to the Tehama-Colusa and Corning Canal contractors, as explained herein, the quantity of water under contract during the extended interim period would not be more than the amount of highest historical beneficial use plus projected future reasonable beneficial use, provided the total amount remains at or below the current interim contract amount. The contracted quantity of water to be delivered for the interim one year period, per standard water allocation procedures, will be the actual allocations identified by CVP operations criteria in February 2000, including any updates, which may be less than the maximum contract as stated in this supplemental EA. Some of the Tehama-Colusa and Corning Canal contractors historically have used less than their respective contractual amounts. Because the total water supply available to all the Tehama-Colusa and Corning Canal contractors historically has been fully used as a result of annual transfers among the Tehama-Colusa and Corning Canal contractors, Reclamation would continue to contract for the existing contract maximum with each Tehama-Colusa and Corning Canal contractor. Additional environmental analyses and documentation would be required prior to the delivery of any water in excess of the contract amount.
- C. Payment—Payment for CVP water would be required using applicable water service rates, payments, and surcharges, including, but not limited to, those required by CVPIA to the CVP Restoration Fund. Payment of contract and full cost rates would be in accordance with the 1988 Reclamation report. The Friant Surcharge would continue to apply to CVP water delivered to the Friant Division through the proposed contract term. The required water service rates would be paid monthly, two months in advance of delivery.

Contractors are required to have implemented an approved tiered block pricing program, to have paid the United States for all CVP water provided consistent with the federal tiered water rate provisions put forth in the CVPIA and consistent with the interim renewal guidelines addressing said federal water rate provisions, or to have been declared exempt from tiered pricing requirements.

The initial interim renewal contracts required accelerated payment of the noninterest-bearing operations and maintenance (O&M) deficits. If

any, held by the contractor, and any amounts remaining to be repaid are subject to separate agreement, per the original interim renewal contracts. The proposed interim renewal contracts would simply recognize, as appropriate, that the contractor has repaid or is in the process of repaying the outstanding noninterest-bearing O&M deficit, pursuant to a separate agreement governing accelerated repayment.

- D. Water Transfer—Interim guidelines for water transfers, developed pursuant to Section 3405(a) of the CVPIA, would be used in implementing water transfers. All interim contracts would comply with these guidelines, as revised and updated. As stated in the guidelines, all transfers would require separate environmental compliance documentation.
- E. Water Quality—Pursuant to Section 3405(c) of the CVPIA, the contractor shall be responsible for compliance with all state and federal water quality standards applicable to surface and subsurface agricultural drainage generated through the use of federal or contractor facilities or CVP water provided by the contractor within its boundaries.
- F. Water Measurement—Pursuant to the intent of Section 3405(b) of the CVPIA, the contractor shall ensure that all surface water delivery systems within its service area are equipped with water-measuring devices or water-measuring methods within five years of the initial interim contract renewal. The installation of water-measuring devices would require, as appropriate, environmental analyses and documentation, pursuant to NEPA.
- G. Water Conservation—Following development of an approved water conservation plan, pursuant to Section 3405(e) of the CVPIA, contractors are required to continue to implement the water conservation plan and to file annual reports intended to document compliance. An internal tiered pricing program (as discussed above under payment provisions) is required within the district.
- H. Water Shortage—During any year, a water shortage may occur in the quantity of water made available to the contractor by the United States through and by means of the CVP. In any year in which there is a shortage in the available CVP water supply, the Contracting Officer shall apportion the available water supply to those contractors entitled to receive project water consistent with their contract with the United States.

- I. Discretionary Provisions of the Reclamation Reform Act (RRA)—Under the interim renewal contract, the contractor shall be subject to all discretionary provisions of the RRA.
- J. Endangered Species Act Compliance—The contractor shall be required to comply with all applicable requirements of any biological opinion addressing the execution of the interim renewal contracts developed pursuant to Section 7 of the ESA, as amended, and to comply with other appropriate environmental documentation that may be required for specific activities.
- K. Standard Articles—Current standard articles, such as the Water and Air Pollution Control, Equal Opportunity, Compliance with Civil Rights Law and Regulations, and Officials Not to Benefit, shall be included in the interim renewal contracts.

2.1.2 Alternative 2, Interim Renewal of Contracts under Revised Terms

Alternative 2 would provide for interim renewal of all 54 water service contracts with specific changes to the contract provisions, as listed below. Contract provisions are listed only if they would differ from the provisions described above for Alternative 1.

- B. Contract Supply—As under Alternative 1, beneficial uses of CVP water supplies would include agriculture, M&I, and ground water recharge. In addition, out-of-district water banking programs would be conditionally approved by the Contracting Officer under Alternative 2, upon compliance with state and federal law.

Water quantities specified in the contracts would be based on Category 1 and Category 2 water supplies. Category 1 water would be the quantity of water that would be reasonably likely to be available during a year for delivery and would be calculated on the basis of the average quantity of water delivered during the most recent five-year period. Category 1 water would be the "contract total" under Alternative 2 for the purpose of applying CVPLA Section 3405(d) tiered pricing.

Category 2 water would be any additional water that may be delivered to contractors in excess of Category 1 water. The maximum quantity of water delivered, including both Category 1 and Category 2 water, would be the maximum contract quantity from the previous interim contract. The total quantity of water delivered during the interim renewal period under Alternative 2 may therefore be the same as under Alternative 1 but would not be more.

- C. Payment—Payment for water would be based on an 80/10/10 tiered pricing structure. Under this approach, the first 80 percent of the contract total (Category 1) would be priced at the contract rate. The contract rate for agricultural water users would be an allocated share of the CVP O&M costs and capital costs. For M&I users, the contract rate would include an allocated share of the CVP O&M costs and capital costs, as well as an interest component calculated at the authorized CVP rate.

The next 10 percent of water delivery would be priced at the average of the contract rate and the full cost rate. The full cost rate for both agricultural and M&I users would be an allocated share of the CVP O&M costs and capital costs, plus interest calculated at the RRA rate.

The final 10 percent of Category 1 water would be priced at the full cost rate. All Category 2 water would be priced at the full cost rate.

Tiered water pricing would be waived for water delivered to produce a crop that provides significant and quantifiable habitat for waterfowl in fields where water is used. Ability-to-pay limitations for agricultural users would apply, as under Alternative 1, but the interim contracts would provide for the Contracting Officer to reevaluate such determinations every five years.

The required water service rates would be paid annually or semiannually, in advance of delivery. Refunds for overpayment would be provided only for billing or payment error or if the quantity of water scheduled and paid for in a contract year is more than the quantity delivered.

- G. Water Conservation—Unless exempted, contractors shall use incentive pricing, according to the contractors' water conservation plans, rather than an internal tiered pricing program. Contractors are required to submit revised water conservation plans every five years.
- K. Standard Articles—Contractors shall be subject to the modified Westwide Rules and Regulations Article, which includes all existing and future rules and regulations promulgated by the Secretary of Interior, as may be amended or supplemented.

3. AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

CHAPTER 3

AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

The affected environment conditions at the present are essentially the same as those described in the 1994 EA. The geographic area analyzed in the 1994 EA also is comparable to the area to be analyzed in this supplemental EA. Therefore, this supplemental EA evaluates potential effects that interim contract renewal may have on the human and natural environment during the one-year analysis period, based on the affected environment described in the 1994 EA.

Potential impacts arising from the assignments of water, such as those by the Mercy Springs or Widren water districts, as previously described, would be subject to separate environmental review processes and are not addressed in this document.

Consistent with the 1994 EA and the 1998 supplemental EA, the following resources are considered in this document:

- Water resources (Section 3.1);
- Land use (Section 3.2);
- Biological resources (Section 3.3);
- Cultural resources (Section 3.4);
- Recreation resources (Section 3.5);
- Demographics and environmental justice (Section 3.6);
- Indian Trust Assets (Section 3.7); and
- Economic resources (Section 3.8).

Cumulative impacts are also evaluated in Section 3.9. The following assumptions were used in evaluating potential impacts of interim contract renewal for an additional one-year period:

- During the interim renewal contract period, the maximum water delivery to each CVP contractor would not change from the existing maximum contract quantities.
- Based on best available knowledge, Reclamation anticipates that the short-term nature of the interim renewal contracts would not likely result in significant new capital investments; therefore, it is assumed that no new diversions or canals would be constructed as a result of interim renewal.
- Based on best available knowledge, Reclamation anticipates that during the interim renewal period, and associated with the use of interim contract water, there would be little or no
 - conversion of natural lands to agricultural production, thereby maintaining the historic stabilization of agricultural land use;
 - conversion of natural or agricultural habitats to other uses without appropriate state or federal coordination and consultation;
 - demonstrable changes in agricultural practices, including flooding regimes and canal maintenance practices, and weed and pest control activities; and
 - changes in the timing or amount of water stored in and historically released from CVP-operated reservoirs or changes in the timing or amount of water in rivers historically regulated by the CVP.

3.1 WATER RESOURCES

3.1.1 Alternative 1, No Action Alternative

Renewal of the interim contracts with only minor administrative changes to the contract provisions would not result in a change in contract water quantities or, based on best available knowledge, a change in water use. Water delivery during previous interim renewal contract periods has not exceeded historic quantities. It is therefore assumed that there would be no effect on surface water supplies or quality.

Based on best available knowledge, Reclamation anticipates that renewal of interim contracts with only minor changes to the contract provisions would not result in any significant growth-inducing impacts. In addition, no substantial

changes in growth are expected to occur during the short time frame of this renewal.

Due to the short term of the interim renewal contracts, benefits associated with additional water conservation measures included in contract provisions are not expected to be significant.

3.1.2 Alternative 2

Contract provisions under Alternative 2 that stipulate the quantity of water delivered (Category 1 and Category 2 water) and the pricing structure (80/10/10 tiered pricing) could result in contractors shifting to other water supplies, such as ground water, to enhance supplies or reduce costs. These contract provisions may also result in implementation of conservation measures that would beneficially affect water resources.

On average, CVP contractors north of the Delta typically receive their full contract quantity of water only 70 percent of the time, while contractors south of the Delta receive their full contract quantity of water less than 40 percent of the time. Contractors typically must rely on other water sources to augment CVP supplies. Although the contract water quantity specified under Alternative 2 would likely be less than under current contracts and under Alternative 1, the actual quantity delivered is likely to be similar to historic deliveries because Category 1 water delivery would be based on typical delivery rates for each contractor.

Reliance on alternative supplies would be compounded under Alternative 2 as a result of potential increased water costs under the 80/10/10 tiered pricing approach. While contractors may receive a total quantity of water comparable to historic deliveries, the increased cost for tier 2 or 3 water (water in excess of 80 percent of the Category 1 contract total) would provide further incentive for contractors to shift their reliance to other water supplies. This may be particularly detrimental in CVP service areas subject to ground water overdraft, such as the San Joaquin River region. Although the short term of renewal would result in only minimal impact, increased reliance on ground water to augment CVP supplies could contribute to potential long-term ground water decline.

3.2 LAND USE

3.2.1 Alternative 1, No Action Alternative

The renewal of contracts with only minor administrative changes to the contract provisions would not provide for additional water supplies that could act as an incentive for increased acreage of agricultural production. Uncertainty of supply due to the short-term duration of the renewal could act as a disincentive for farmers to preserve their lands from urban development, but this effect would be offset by the desire to retain agricultural lands until long-term contracts can be executed. Given that this is an interim renewal process, the net effect on land use conversion likely would be minimal.

In addition, Reclamation requests that all contractors inform the appropriate Reclamation area office of proposed land use changes associated with interim contract water. In discussions between Reclamation and the USFWS for the previous interim renewal, it was decided that the Reclamation, through informal consultation with the USFWS, will analyze the potential effects of any changes and would determine what, if any, mitigation would be appropriate for Reclamation to undertake.

3.2.2 Alternative 2

Impacts to land use associated with Alternative 2 would be comparable to those described under Alternative 1. Contract provisions under Alternative 2 that stipulate the quantity of water delivered (Category 1 and Category 2 water) and the pricing structure (80/10/10 tiered pricing) could result in changes in cropping patterns or land fallowing, as contractors respond to uncertainties in supply and water cost. Because actual water deliveries are not likely to change and because this is an interim renewal process, it is unlikely that the uncertainty of the water supply would result in any changes in agricultural practices that would influence land use.

3.3 BIOLOGICAL RESOURCES

3.3.1 Alternative 1, No Action Alternative

Based on best available knowledge, the status of biological resources in the affected area has not changed significantly from that described in the 1994 EA. Since the 1994 EA was issued, regulatory changes have occurred that affect CVP operations. In 1993, the USFWS released a Biological Opinion that instituted restrictions on CVP and State Water Project (SWP) operations to protect the Delta smelt and its habitat. This biological opinion was revised in 1994 and 1995. In 1994, federal, state, and private interests agreed to implement the Bay-Delta protection plan. Coordinated operation of the CVP and SWP is based on this agreement. In 1992, the National Marine Fisheries Service (NMFS) released a Biological Opinion that established criteria for protection of the winter-run chinook salmon. This Biological Opinion was revised in 1993 and 1995.

Current measures to address biological concerns would continue under interim renewal. Several programs provided for in the CVPIA would continue, including land retirement, refuge water supplies, the anadromous fish restoration program, and the Section 3406(b)(1) "other" program, which would protect, restore, and enhance the biological resources within the CVP service area. Reclamation and USFWS also would continue to implement the long-term CVP-wide Conservation Program (CVPCP) which, in concert with other programs, would address the needs of special status species in the affected area, including habitat. The CVPCP establishes implementing plans and priority needs before identifying ecological needs, options, and actions for implementation. However, the CVPCP does not provide site specific ESA coverage, is not mitigation for any site specific impacts, and does not address or authorize take of listed species.

In response to previous consultation with the USFWS, Reclamation has undertaken a number of commitments to monitor and address any impacts from the previous interim contracts. The purpose of these activities has been to ensure that no significant impacts occur or, if they do, that such impacts are adequately mitigated. Appendix A contains the 1996 through 1999 Annual Reports on the various environmental commitments made and Reclamation's progress in implementing them. The current Biological Opinion for interim contracts is contained in Appendix E and presents the commitments that Reclamation will undertake during the proposed interim renewal period to address potential impacts.

While some land use changes may have occurred that are related to interim contracts, such changes have not been significant, based on the best available knowledge. In response to these changes, Reclamation has initiated consultation with USFWS to determine any mitigation activities that may be necessary. An analysis will also be conducted to determine if and how much land use change has occurred during the period of the interim water contracts. This data will be published separately and used in the analysis of potential environmental effects for long term contract renewals.

Finally, CVP-wide impacts to biological resources have been evaluated in the PEIS, and a Biological Opinion to address potential CVP-wide impacts is being negotiated by Reclamation and USFWS. This opinion is anticipated to be completed during the period of this interim renewal. Operation of the CVP by Reclamation would be subject to the provisions of this Biological Opinion when the agreement has been finalized and a start date has been determined.

The amount and timing of storage at CVP reservoirs and flows in rivers and streams that convey CVP water during the one-year contract renewal period are expected to be similar to historic conditions and to be in conformance with all existing biological opinions. Further, the protective provisions of the existing biological opinions also should benefit any newly listed species. Existing programs to protect biological resources would continue to be implemented under this alternative and to ensure that no significant impacts to biological resources would occur. Because this is an interim renewal process, it is unlikely that any changes in agricultural practices or land use, which could result in loss of habitat or species, would occur. No significant impacts to biological resources are expected.

3.3.2 Alternative 2

Impacts to biological resources associated with Alternative 2 would be comparable to those described under Alternative 1. Contract provisions under Alternative 2 that stipulate the quantity of water delivered (Category 1 and Category 2 water) and the pricing structure (80/10/10 tiered pricing) could result in changes in agricultural practices or land use as contractors respond to uncertainties in supply and water cost. However, due to the short period of this renewal and because actual water deliveries are likely to remain the same during this period, it is

unlikely that any changes in agricultural practices or land use which could result in loss of habitat or species would occur. Existing programs to protect biological resources, as described under Alternative 1, would continue to be implemented under Alternative 2. No significant impacts to biological resources are expected.

3.4 CULTURAL RESOURCES

3.4.1 Alternative 1, No Action Alternative

The No Action Alternative would not result in activities that could affect cultural resources, such as substantial changes in reservoir elevations, changes in land use, or the construction of any new facilities. During preparation of the 1994 EA, Reclamation consulted with the State Historic Preservation Officer regarding the potential impacts on cultural resources. As part of this consultation, Reclamation developed a process for the contractors to follow to determine if changing water uses would affect historic properties. This process would remain unchanged during the one-year interim renewal period. No impacts to cultural resources are expected.

3.4.2 Alternative 2

Impacts to cultural resources associated with Alternative 2 would be comparable to those described under Alternative 1. Contract provisions under Alternative 2 that stipulate the quantity of water delivered (Category 1 and Category 2 water) and the pricing structure (80/10/10 tiered pricing) could result in changes in agricultural land uses, such as land fallowing. The types of changes in agricultural practices likely to occur under Alternative 2, such as land fallowing, could benefit cultural resources by not disturbing potential sites. Nevertheless, because actual water deliveries are not likely to change and because this is an interim renewal, uncertainty of supply would not result in any measurable changes in land use, which could in turn affect cultural resources. The process to protect historic properties developed by Reclamation during consultation for the 1994 EA discussed above under Alternative 1 would continue to apply during the interim renewal period under Alternative 2. No impacts to cultural resources are expected.

3.5 RECREATION RESOURCES

3.5.1 Alternative 1, No Action Alternative

No changes in CVP reservoir storage or modifications in the amount or timing of water deliveries, which could affect recreational resources, would occur under Alternative 1; therefore, no impacts to recreational resources are anticipated.

3.5.2 Alternative 2

Impacts to recreational resources associated with Alternative 2 would be comparable to those described under Alternative 1.

3.6 DEMOGRAPHICS AND ENVIRONMENTAL JUSTICE

3.6.1 Alternative 1 – No Action Alternative

Factors contributing to population change, employment, and income levels and unemployment rates in the affected area are closely tied to CVP water contracts, through either agricultural or M&I dependence. Because no changes in water supplies or CVP operations would occur under this alternative, changes in population and the various indicators of social well-being that would result are expected to be relatively minor.

Executive Order 12898 requires federal agencies to identify potential impacts arising from their actions that would disproportionately affect minority and low-income populations. Contract terms that affect water delivery would affect agricultural production, which dictates the migration and location of migrant workers who tend to be from minority and low-income populations. The No Action Alternative would support continued agricultural production and would not directly result in changes to employment of minority and low-income populations. Therefore, Alternative 1 would not differ from current conditions and would not be expected to disproportionately affect minority or low-income populations.

3.6.2 Alternative 2

Contract provisions under Alternative 2 that stipulate the quantity of water delivered (Category 1 and Category 2 water) and the pricing structure (80/10/10 tiered pricing) could result in changes in agricultural practices, including cropping patterns and land fallowing. M&I users would also be impacted by changes in supply or water cost. Because this is a temporary action, and because the potential changes in water delivery and cost is expected to be within the normal range of variation, it is unlikely that significant changes in social-well being would occur under this alternative.

Changes in cropping patterns and land fallowing may be detrimental to farm workers, especially to migrant workers who tend to be from minority and low-income populations. This impact would be attenuated by the short duration of the interim renewal and the low likelihood of major shifts in agricultural production in a single year. Any changes would likely be within the normal range of annual or seasonal variation. No significant disproportionate impacts to minority or low-income populations are expected.

3.7 INDIAN TRUST ASSETS (ITA)

3.7.1 Alternative 1, No Action Alternative

Continued delivery of project water to the existing contracts would not affect any Indian Trust Assets (ITA) because existing rights would not be affected, no physical changes to existing facilities are proposed, and no new facilities are proposed.

3.7.2 Alternative 2

Impacts to ITA associated with Alternative 2 would be comparable to those described under Alternative 1.

3.8 ECONOMIC RESOURCES

3.8.1 Alternative 1, No Action Alternative

Existing water deliveries and CVP facility operations would continue under the No Action Alternative. No significant changes in power generation, recreational opportunities, or agricultural economies are expected. No significant economic impacts were identified during the previous interim renewal period and, similarly, no significant economic impacts are anticipated to occur under the extended period of renewal.

3.8.2 Alternative 2

Contract provisions under Alternative 2 that stipulate the quantity of water delivered (Category 1 and Category 2 water), the water pricing structure (80/10/10 tiered pricing), and annual or semiannual payment for water, could place an additional financial burden on water contractors. Because the economy of the Central Valley is heavily dependent on these water supplies, this increased burden, despite the short duration of the renewal, would translate into economic impacts throughout the affected area.

Uncertainty as to the quantity of water delivered may provide some disincentive for long-term investment by agricultural or M&I contractors. Because the short duration of the renewal action, it is unlikely that uncertainty would significantly alter investment decisions.

While contractors may receive the same quantity of water under this alternative, the tiered pricing structure stipulated in the contract may result in higher water prices for both agricultural and M&I contractors if second or third tier water is provided. The contract provision for annual or semiannual payment for CVP water may also place an increased financial burden on contractors since water payments could no longer be economically distributed over time. The increased cost of water resulting from these two contract provisions could lead to increases in water conservation or measurement practices, conversion to alternative water supplies, land fallowing, or changes in cropping patterns. Local and regional economies would be directly affected as a result of losses in farming revenues, decreased value of land dependant on water supplies, increased costs to consumers of agricultural products or M&I water, and increased water conservation or measurement costs.

The cost of water and the return on investment varies substantially within the affected area and therefore the magnitude of the economic impact also would vary. Potential impacts may be most adverse in CVP service areas where the price of water already meets or exceeds the contractors capacity to pay for it (i.e., Tehama-

Colusa Canal or Bella Vista contractors). In areas where the costs of alternative supplies are substantially higher, such as the Tulare Lake region, agricultural producers could experience significant losses in net revenue.

Costs for increased conservation or measurement may be substantial for some contractors. While some cost savings may be achieved, return on investment from implementing such measures would occur over the long run and would be minor during the interim period of renewal.

Ability-to-pay determinations would apply under this alternative and would provide partial relief to contractors for whom it is authorized; however, because CVPIA requires that third tier water be priced at the full-cost rate, no relief would be provided for third tier deliveries. Second tier water deliveries would also reflect only partial relief from capital obligations. In addition, contractors for whom ability-to-pay studies have not been performed would not be able to seek relief during the short time period of this renewal.

No significant changes in power generation or recreational opportunities would be expected to occur under Alternative 2 and no impacts to these economic areas are expected.

3.9 CUMULATIVE IMPACTS

CEQ regulations (40 CFR Parts 1500-1508) implementing the procedural provisions of NEPA, as amended (42 USC §§ 4321 et seq.), define cumulative effects as follows:

"The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions" (40 CFR § 1508.7).

A single project may have individually minor impacts; however, when considered together with other projects, the effects may be collectively significant. Therefore, a cumulative impact is the additive effect of all past, present, and reasonably foreseeable future actions in the geographic area.

The potential environmental impacts of these projects and the potential for additive effects when combined with the proposed activities considered in this EA were examined, and neither of the alternatives were determined to result in significant cumulative impacts.

3.9.1 Cumulative Activities in the Affected Area

Due to the large area of potential effect, there are numerous actions and projects being undertaken by federal, state, and local agencies or individuals that could contribute to cumulative impacts. Therefore, the following discussion focuses on water-related activities with broad effects within the Central Valley, as well as on

activities that are similar in time or effect to the interim renewal contracts. These actions would, in general, affect fisheries and other biological resources, land use, ground water and surface water use, and economic values (i.e., land and agricultural production costs). The contribution of the interim renewal contracts to cumulative impacts is assessed based on these actions.

The following actions are major activities currently underway in the affected area. This list is not comprehensive but is representative of the types of activities that would be expected to occur in the affected area.

Implementation of the CVPLA—The multiple requirements of the CVPLA are being implemented over time based on specific provisions of the act. The final PEIS was issued in October 1999, and the site-specific environmental review process for long-term water contract renewal has begun. Long-term water service contracts will supercede the interim contracts but may still influence behavior during the period of interim renewal.

Other provisions that are being implemented include acquiring water from willing sellers for Level 4 wildlife refuge supplies, dedicating and managing a portion of CVP yield for fish and wildlife, implementing water transfers, land retirement, and assessing and collecting Restoration Fund payments and charges.

Implementation of the Bay-Delta Plan Accord—This agreement among state and federal agencies in the San Francisco Bay/San Joaquin River Bay-Delta provides for development of a long-term plan to restore ecosystem health and to improve water management in the Delta. The plan consists of multiple actions over a wide area.

Trinity River Instream Flow Requirements Study—This action evaluates instream flow requirements in the Trinity River and may result in new flow requirements that affect flow levels in the Sacramento River and water reliability in the CVP system.

Sacramento and San Joaquin River Basin Comprehensive Study—This action is to develop strategies to increase flood protection and to improve the ecosystem health in the Sacramento and San Joaquin river watersheds.

East Bay Municipal Utility District Supplemental Water Supply Project—This project would provide for delivery of water, pursuant to an existing CVP contract, from the American River.

American River Watershed Project—This action is to develop strategies to address flood control problems in the American River basin.

In addition to specific projects or actions, current activities, such as continued operation of the SWP, and large-scale trends, such as changes in federal farm

programs or demand for agricultural products, may contribute to cumulative effects in the affected area. Numerous local projects throughout the Central Valley also would contribute to cumulative impacts.

Alternative 1, No Action Alternative

The proposed renewal of the interim contracts for one year with only minor administrative changes to the contract provisions would not be expected to contribute significantly to any cumulative impacts under this alternative.

While many of the projects listed above would seek to beneficially manage water and biological resources on a larger scale, current trends toward urban encroachment and conversion of agricultural land to nonagricultural uses in the Central Valley would be expected to occur during the interim renewal period and may result in cumulative adverse effects on all types of environmental resources. Because renewal contracts are of a limited duration, represent a continuation of existing conditions, and would not provide for additional water supplies that could lead to shifts in agricultural practices or land use, interim contract renewal would contribute negligibly to cumulative impacts. Interim contract renewal is fundamentally different from these long-term federal activities because the proposed action is a short-term interim activity with a clearly defined end point (through February 2001). Based on what has occurred in the previous interim periods, extending the interim renewal period for one year with only minor administrative changes to the contract provisions, is not expected to contribute to CVP-related impacts in any significant manner.

Alternative 2

Cumulative impacts associated with Alternative 2 would be comparable to those described under Alternative 1. Although Alternative 2 may result in significant adverse impacts to water resources, land use, and economics, which may contribute to significant cumulative impacts, the contribution to such impacts would be minor because interim renewal would be a temporary action.

4. CONSULTATION AND COORDINATION

CHAPTER 4

CONSULTATION AND COORDINATION

4.1 ENDANGERED SPECIES ACT

Reclamation consulted with the USFWS pursuant to the ESA on the previous interim renewal contracts and received a final Biological Opinion in December 1994, which was revised in February 1995. The Biological Opinion subsequently was extended to cover the interim renewal from February 1995 through February 2000.

The Biological Opinion detailed a number of commitments made by Reclamation, including filing of an annual report that indicated Reclamation's compliance with these commitments. The four most recent annual reports by Reclamation are contained in Appendix A. Reclamation will provide the USFWS, Endangered Species Division, with copies of future annual reports of Interim Contract Biological Opinion Implementation in draft for 30 day review and approval prior to finalization.

Since the 1994 EA was issued, additional species in the CVP area have been added to the federal threatened and endangered species listing. USFWS, based on an evaluation of Reclamation's compliance with the 1995 Biological Opinion, extended the effective date of the 1995 Biological Opinion to cover the extended interim renewal period for the 1998 supplemental EA. The USFWS further concurred with Reclamation that the issuance of interim CVP contracts is not likely to adversely affect any newly listed species.

Reclamation consulted with USFWS during preparation of this supplemental EA. As part of the USFWS consultation process, Reclamation provided USFWS with additional information concerning water service area boundaries, water transfers, selenium, and other issues. Reclamation also requested that 14 Friant contractors that are not part of the proposed action be included in the Biological Opinion. This request was made because, although the current interim contracts do not expire until February 28, 2001, the Biological Opinion for these 14 contractors

expires in February 28, 2000. (See Appendix C for correspondence between Reclamation and USFWS regarding these issues.)

USFWS issued a revised Biological Opinion for interim renewal of contracts through February 28, 2001 (Appendix E). The Biological Opinion also applies to 14 Friant contractors. This opinion presents commitments that Reclamation will undertake during the interim renewal period to address potential impacts to threatened or endangered species.

Reclamation also consulted with NMFS during preparation of this supplemental EA. NMFS concurred with Reclamation's determination that the proposed action would not adversely affect any listed species, or their designated or proposed habitat (Appendix D).

4.2 CULTURAL RESOURCES

As discussed previously, Reclamation consulted with the State Historic Preservation Officer during the preparation of the 1994 EA regarding the potential impacts on cultural resources. As part of this consultation, Reclamation developed a process for contractors to determine whether they would be changing water uses and possibly affecting historic properties. This process would remain unchanged during the one-year interim renewal period.

5. REFERENCES

1.
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CHAPTER 5

REFERENCES

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- _____. 1994b. Interim Renewal Contracts Final Environmental Assessment. Mid-Pacific Regional Office. December 1994.
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6. LIST OF PREPARERS

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CHAPTER 6

LIST OF PREPARERS

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(Water Resources)

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B.A., Technical and Professional Writing
Years of Experience: 13
(Technical Editing)

APPENDIX A

INTERIM RENEWAL CONTRACTS
BIOLOGICAL OPINION IMPLEMENTATION
ANNUAL STATUS REPORTS
(1996 through 1999)

APPENDIX B

RESPONSES TO COMMENTS ON
THE DRAFT SUPPLEMENTAL EA

APPENDIX C

BUREAU OF RECLAMATION
CORRESPONDENCE WITH US FISH AND WILDLIFE SERVICE
CONCERNING 14 INTERIM RENEWAL CONTRACTS

APPENDIX D

NATIONAL MARINE FISHERIES SERVICE
LETTER TO BUREAU OF RECLAMATION
INFORMAL CONSULTATION AND REQUEST FOR CONCURRENCE WITH
DETERMINATION OF NO ADVERSE EFFECT FOR 55 INTERIM RENEWAL CONTRACTS

APPENDIX E

US FISH AND WILDLIFE SERVICE
BIOLOGICAL OPINION FOR INTERIM CONTRACT RENEWAL

APPENDIX B

Interim Contract Sample

DRAFT -- DRAFT -- DRAFT

| | |
|----|-----------------------|
| 1 | Irrigation and M&I |
| 2 | R.O. Draft 05/27-1994 |
| 3 | Rev. R.O. 06/21-1994 |
| 4 | Rev. R.O. 07/11-1994 |
| 5 | Rev. R.O. 07/19-1994 |
| 6 | Rev. R.O. 08/09-1994 |
| 7 | Rev. R.O. 08/15-1994 |
| 8 | Rev. R.O. 08/19-1994 |
| 9 | Rev. R.O. 02/17-1995 |
| 10 | Rev. R.O. 08/13-1997 |
| 11 | Rev. R.O. 09/29-1999 |
| 12 | Rev. R.O. 09/30-1999 |
| 13 | Rev. R.O. 11/03-1999 |
| 14 | Rev. R.O. 08/25-2000 |
| 15 | Rev. R.O. 09/14-2000 |
| 16 | Rev. R.O. 12/08-2000 |
| 17 | R.O. 01/30-2001 |

18 UNITED STATES
19 DEPARTMENT OF THE INTERIOR
20 BUREAU OF RECLAMATION
21 Central Valley Project, California

22 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
23 AND

24 _____
25 PROVIDING FOR PROJECT WATER SERVICE

26 THIS CONTRACT, made this ____ day of _____, 2001, in
27 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
28 supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844),
29 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
30 July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 58), October 12, 1982 (96 Stat. 1261), as

1 amended and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
2 hereinafter referred to as the Federal Reclamation law, between THE UNITED STATES OF
3 AMERICA, hereinafter referred to as the United States, and _____,
4 hereinafter referred to as the Contractor, a public agency of the State of California, duly
5 organized, existing, and acting pursuant to the laws thereof, with its principal place of business in
6 _____, California;

7 WITNESSETH, That:

8 EXPLANATORY RECITALS

9 WHEREAS, the United States has constructed and is operating the Central Valley
10 Project, California for diversion, storage, carriage, distribution and beneficial use, for flood
11 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
12 restoration, generation and distribution of electric energy, salinity control, navigation and other
13 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and
14 the San Joaquin River and their tributaries; and

15 [DIVISIONAL ISSUE] WHEREAS, the United States constructed
16 _____, hereinafter collectively referred to as the _____ facilities, which
17 will be used in part for the furnishing of water to the Contractor pursuant to the terms of this
18 interim renewal contract; and

19 [DISTRICT ISSUE] WHEREAS, the Contractor and the United States entered
20 into Contract No. _____ as amended, which provided the Contractor, Central Valley

1 Project water from the _____ from _____ to
2 _____ and

3 WHEREAS, the Contractor and the United States entered into interim renewal
4 contract(s) identified as Contract No(s). _____, the latter of which is
5 hereinafter referred to as the Existing Interim Renewal Contract, which provided Project Water
6 to the Contractor from _____ through _____; and

7 WHEREAS, the Contractor has requested a subsequent interim renewal contract
8 pursuant to the Existing Interim Renewal Contract, Federal Reclamation law and the laws of the
9 State of California, for water service from the Central Valley Project; and

10 WHEREAS, the United States and the Contractor believe that either further
11 negotiations on a long-term renewal contract for the Contractor would be beneficial and mutually
12 commit to continue to negotiate to seek to reach agreement or the Contractor's proposed long-
13 term renewal contract's required environmental review necessary to execute a long-term renewal
14 contract has not been completed, and the Contractor has requested a subsequent interim renewal
15 contract pursuant to Article 2 (b)(1) of the existing Interim Renewal Contract; and

16 WHEREAS, the United States has determined that the Contractor has to date
17 fulfilled all of its obligations under the Existing Interim Renewal Contract; and

18 WHEREAS, The Contracting Officer has determined that the Contractor has the
19 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable
20 and beneficial use for, the quantity of Project Water to be made available to it pursuant to this
21 interim renewal contract; and

1 [DISTRICT ISSUE] WHEREAS, rights of renewal of Contract No.

2 _____ and to convert said contract to a contract as provided by subsection (d),
3 Section 9 of the Act of August 4, 1939 (53 Stat. 1187), are set forth in said contract; and

4 WHEREAS, Section 3404 of the CVPIA, precludes long-term renewal of water
5 service contracts until the completion of appropriate environmental documentation, including a
6 programmatic environmental impact statement ("PEIS") pursuant to the National Environmental
7 Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA
8 and the potential renewal of all existing contracts for Project Water; and

9 WHEREAS, in order to continue water service provided under Project water
10 service contracts that expire prior to the completion of the PEIS, the United States intends to
11 execute interim renewal contracts for a period not to exceed three (3) Years in length, and for
12 successive interim periods of not more than two (2) Years in length, until appropriate
13 environmental documentation, including the PEIS, is finally completed, at which time the
14 Secretary shall, pursuant to Federal Reclamation law, upon request of the Contractor, enter into a
15 long-term renewal contract for a period of twenty-five (25) Years; and may thereafter renew such
16 long-term renewal contracts for successive periods not to exceed twenty-five (25) Years each;
17 and

18 WHEREAS, the Secretary intends to assure uninterrupted water service and
19 continuity of contract through the process set forth in Article 2 hereof; and

1 WHEREAS, the United States is willing to renew the Existing Interim Renewal
2 Contract pursuant to Section 3404(c)(1) of the CVPIA on the terms and conditions set forth
3 below;

4 NOW, THEREFORE, in consideration of the mutual and dependent covenants
5 herein contained, it is hereby mutually agreed by the parties hereto as follows:

6 DEFINITIONS

7 1. When used herein unless otherwise distinctly expressed, or manifestly
8 incompatible with the intent hereof, the term:

9 (a) "Calendar Year" shall mean the period January 1 through December 31,
10 both dates inclusive;

11 (b) "Charges" shall mean the payments in addition to the Rates determined
12 annually by the Contracting Officer, required by the Federal Reclamation law, including
13 Section 3407 of the CVPIA;

14 (c) [District Issue] "Contractor's Service Area/boundaries" shall mean the
15 area to which the Contractor is permitted to provide Project Water under this interim
16 renewal contract;

17 (d) "CVPIA" shall mean the Central Valley Project Improvement
18 Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

19 (e) "Delivered Water" shall mean Project Water made available to
20 the Contractor and diverted at the point(s) of delivery approved by the Contracting
21 Officer;

1 (f) "Eligible Lands" shall mean all lands to which Irrigation Water may
2 be delivered in accordance with Section 204 of the Reclamation Reform Act of
3 October 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

4 (g) "Excess Lands" shall mean all lands defined as excess in
5 Section 204 of the RRA, other than those lands exempt from acreage limitation under
6 Federal Reclamation law;

7 (h) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
8 or 202(3) of the RRA, whichever is applicable;

9 (i) "Ineligible Lands" shall mean all lands to which Irrigation Water may not
10 be delivered in accordance with Section 204 of the RRA;

11 (j) "Irrigation Water" shall mean Project Water which is used primarily
12 in the production of agricultural crops or livestock, including domestic use
13 incidental thereto, and watering of livestock;

14 (k) "Landholder" shall mean an individual or entity attributed with the total
15 irrigable acreage of one or more tracts of land situated in one or more districts owned
16 and/or operated under a lease which is served with Irrigation Water pursuant to a contract
17 with the United States;

18 (l) "M&I Water" shall mean water made available from the Project other than
19 Irrigation Water. M&I Water shall include water used for purposes such as the watering
20 of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment
21 or water delivered to landholding operated in units of less than _____ acres unless the

1 Contractor establishes to the satisfaction of the Contracting Officer that the use of water
2 delivered to any such landholding is a use described in subdivision (j) of this Article;

3 (m) "O&M" shall mean normal and reasonable care, control, operation, repair,
4 replacement, and maintenance of Project facilities;

5 (n) "Operating Non-Federal Entity" shall mean a Non-Federal entity which
6 has the obligation to operate and maintain all or a portion of the [Division] facilities
7 pursuant to an agreement with the United States;

8 (o) "Project" shall mean the Central Valley Project owned by the
9 United States and operated by the Department of the Interior, Bureau of Reclamation;

10 (p) "Project Water" shall mean all water that is developed, diverted, stored, or
11 delivered by the United States in accordance with the statutes authorizing the Project and
12 in accordance with the terms and conditions of applicable water rights permits and
13 licenses acquired by and/or issued to the United States pursuant to California law;

14 (q) "Rates" shall mean the payments determined annually by the Contracting
15 Officer in accordance with the then current applicable water ratesetting policies for the
16 Project;

17 (r) "Secretary" or "Contracting Officer" shall mean the Secretary of the
18 United States Department of the Interior or his duly authorized representative;

19 (s) "Year" shall mean the period from and including March 1 of
20 each Calendar Year through the last day of February of the following Calendar Year:

21 TERM OF CONTRACT - RIGHT TO USE OF WATER

1 2. (a) This interim renewal contract shall be effective from March 1, 2001 and
2 shall remain in effect through February 28, 2002, and thereafter will be renewed as described in
3 this article. Except as provided in subdivision (b) of this Article, until completion of all
4 appropriate environmental review, and provided that the Contractor has complied with all the
5 terms and conditions of the interim renewal contract in effect for the period immediately
6 preceding the requested successive interim renewal contract, this interim renewal contract will be
7 renewed, upon request of the Contractor, for successive interim periods each of which shall be no
8 more than two (2) Years in length. Also, except as provided in subdivision (b) of this Article, in
9 order to promote orderly and cost effective contract administration, the terms and conditions in
10 subsequent interim renewal contracts shall be identical to the terms and conditions in the interim
11 renewal contract immediately preceding the subsequent interim renewal contract: Provided
12 however, That each party preserves the right to propose modification(s) in any interim renewal
13 contract other than those described in subdivision (b) of this Article, in which case the parties
14 shall negotiate in good faith appropriate modification(s) to be included in any successive interim
15 renewal contracts. Said modification(s) of each successive interim renewal contract shall be
16 agreed upon within a reasonable time prior to the expiration of the then existing interim renewal
17 contract. Nothing in this Article shall in any way alter the obligation that, upon final completion
18 of the PEIS and any necessary supplemental environmental documentation, the Secretary shall
19 pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term
20 renewal contract for a period of twenty-five (25) Years and may thereafter renew such long-term
21 renewal contracts for successive periods not to exceed twenty-five (25) Years each. The
22 Contractor asserts that Contract No. _____ and existing law go beyond the preceding

1 sentence to give it enforceable rights to successive long-term renewal contracts. The Contracting
2 Officer disagrees with that assertion. The parties agree that this interim renewal contract
3 preserves the rights and positions of the parties and that the omission of language in this interim
4 renewal contract setting out the rights asserted by the Contractor to successive renewals is not
5 intended to be, nor shall it be interpreted as, a waiver of any such rights to the extent any such
6 rights are later determined to exist by a court of competent jurisdiction or by mutual agreement
7 of the parties. If a court of competent jurisdiction or the parties by mutual agreement determine
8 that incorporation of such language in this interim renewal contract is necessary to preserve such
9 rights, this interim renewal contract shall be construed as incorporating such language as though
10 fully set forth herein as of the effective date hereof.

11 (b) The parties anticipate that they will engage in good faith negotiations
12 intended to permit the execution of a twenty-five (25) Year long-term renewal contract
13 contemplated by Section 3404 (c) of the CVPLA, hereinafter referred to as a "long-term renewal
14 contract", by the end of the term hereof. The parties recognize the possibility that this schedule
15 may not be met. Accordingly:

16 (1) In the event (i) the Contractor and Contracting Officer have
17 reached agreement on the terms of the Contractor's long-term renewal contract or (ii) the
18 Contractor and Contracting Officer have not completed the negotiations on the Contractor's
19 long-term renewal contract, believe that further negotiations on that contract would be beneficial,
20 and mutually commit to continue to negotiate to seek to reach agreement, but (iii) all
21 environmental documentation required to allow execution of the Contractor's long-term renewal

1 contract by both parties has not been completed in time to allow execution of the Contractor's
2 long-term renewal contract by November 30, 2001, then (iv) the parties will expeditiously
3 complete the environmental documentation required of each of them in order to execute the
4 Contractor's long-term renewal contract at the earliest practicable date. In addition, the
5 Contractor's then current interim renewal contract will be renewed without change upon the
6 request of either party through the agreed-upon effective date of the Contractor's long-term
7 renewal contract or, in the absence of agreement on the terms of the Contractor's long-term
8 renewal contract, through the succeeding February 28.

9 (2) Provided that this interim renewal contract is not subject to
10 renewal under the terms described in subdivision (1) of this Article, if a party determines that the
11 parties have reached an impasse which they have been unable to resolve and which precludes
12 agreement on the long-term renewal contract, that party may notify the other that it has
13 concluded that there is no reasonable likelihood of reaching agreement on the terms of a
14 long-term renewal contract prior to November 1, 2001. In the event of such notice, the parties
15 will immediately agree to a schedule and process for negotiating the terms (other than any terms
16 that would impair continuity of water supply or continuity of contract) of and executing an
17 interim renewal contract; provided that neither party will propose for inclusion in the interim
18 renewal contract any provision not previously included in an existing interim renewal contract
19 which it had previously proposed for inclusion in the long-term renewal contract and which was
20 the subject of an impasse in the long-term renewal contract negotiations. The schedule will
21 provide for completion of the negotiations of the terms of that contract by February 1, 2002, and

1 for execution of the contract on or about February 15, 2002. The parties each acknowledge the
2 right of either party to seek judicial relief in connection with any impasse reached in connection
3 with negotiation of the long-term renewal contract and/or an interim renewal contract that would
4 become effective on or after February 28, 2002.

5 (c) The parties acknowledge that the Contractor asserts that it is entitled as a
6 matter of law to an interim renewal contract of longer duration than twelve (12) months, and that
7 the Contracting Officer asserts that it is under no obligation to provide the Contractor with an
8 interim renewal contract of any particular duration. Accordingly, the parties further
9 acknowledge that (i) the foregoing process represents a mutual accommodation to facilitate their
10 joint desire to proceed with the development of a long-term renewal contract in an expeditious
11 and orderly manner, (ii) they each preserve their respective rights and positions relative to the
12 entitlement of the Contractor to subsequent interim renewal contracts should they become
13 necessary, and the terms thereof, and (iii) their agreement to the process and interim renewal
14 contract terms described above is in no way intended to be, nor will it be interpreted as, a waiver
15 of any such rights or positions, all of which are and will be expressly preserved.

16 (d) [DISTRICT ISSUE] The omission of language in this interim renewal
17 contract providing for conversion of this interim renewal contract or any subsequent renewals
18 thereof to a repayment contract, pursuant to the Act of July 2, 1956 (70 Stat. 483), shall not
19 prejudice the Contractor's right to assert a right to have such language included in subsequent
20 renewals of this interim renewal contract or to exercise such conversion, all as provided by law.

1 or to negotiate the language regarding such conversion to be included in subsequent renewal
2 contracts.

3 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

4 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and
5 consistent with applicable State water rights, permits and licenses, the Contractor is entitled to,
6 and the Contracting Officer shall be obligated to make available to the Contractor up to _____
7 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the term
8 of this interim renewal contract. The quantity of Project Water delivered to the Contractor in
9 accordance with this Article 3(a) in any Year shall be scheduled and paid for pursuant to the
10 provisions of Articles 4 and 7 hereof, and shall not exceed the quantity of Project Water the
11 Contractor intends to put to reasonable beneficial use within the Contractor's Service
12 Area/boundaries or sold, transferred, or exchanged pursuant to Article 9 during the term of this
13 interim renewal contract.

14 (b) The Contractor shall utilize the Project Water made available to it pursuant
15 to this interim renewal contract in accordance with all applicable requirements of any Biological
16 Opinion addressing the execution of this interim renewal contract developed pursuant to Section
17 7 of the Endangered Species Act of 1973 as amended, and in accordance with environmental
18 documentation as may be required for specific activities, including conversion of Irrigation
19 Water to M&I Water.

20 (c) The Contractor shall make reasonable and beneficial use of Project Water
21 or other water furnished pursuant to this interim renewal contract. [Divisional Issue] In addition.

1 use of Project Water in a ground-water recharge program shall be permitted under this contract to
2 the extent that it is carried out in accordance with California law; Provided, however, that such
3 ground-water recharge program cannot be undertaken unless and until the Contractor submits a
4 ground-water management plan pursuant to California law that demonstrates that such ground-
5 water recharge program will result in a reasonable and beneficial use of such water.

6 (d) If the Contracting Officer determines that Project Water, or other water
7 available to the Project, can be made available to the Contractor in addition to the quantity of
8 Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the
9 Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any
10 quantity of such water, the Contracting Officer shall make such water available to the Contractor
11 in accordance with applicable statutes, regulations, guidelines, and policies.

12 (e) [DIVISIONAL ISSUE] If the Contractor requests permission to
13 reschedule for use during the subsequent Year some or all of the Project Water made available to
14 the Contractor during the current Year or to use, during the current Year, that quantity of Project
15 Water the United States has agreed to make available to the Contractor during the subsequent
16 Year, the Contracting Officer may permit such uses in accordance with applicable statutes,
17 regulations, guidelines, and policies.

18 (f) The Contractor's right pursuant to Federal Reclamation law and applicable
19 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any
20 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal
21 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under

1 this interim renewal contract and any such renewal thereof. Nothing in the preceding sentence
2 shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article
3 12 of this interim renewal contract and the applicable provisions of any such renewal thereof.

4 (g) Notwithstanding subdivisions (j) and (l) of Article 1, Project Water
5 furnished to the Contractor pursuant to this interim renewal contract may be delivered for
6 purposes other than those described in subdivisions (j) and (l) of Article 1 upon written approval
7 by the Contracting Officer in accordance with the terms and conditions of such approval.

8 TIME FOR DELIVERY OF WATER

9 4. (a) On or about February 15, of each Calendar Year, the Contracting Officer
10 shall declare the amount of Project Water estimated to be made available to the Contractor
11 pursuant to this interim renewal contract for the upcoming Year. The declaration will be updated
12 monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall
13 make available the forecast of Project operations, with relevant supporting information, upon the
14 written request of the Contractor or its representatives. Upon written request of the Contractor,
15 the Contracting Officer shall provide the basis of the estimate which shall include, but not be
16 limited to, a monthly pumping forecast for the O'Neill Pumping Plant, the projected carryover of
17 Project reservoirs, projected CVPLA impacts, projected Endangered Species Act, and all other
18 regulatory impacts.

19 (b) On or before each March 1, the Contractor shall submit to the Contracting
20 Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting
21 Officer, showing the times, and quantities of Project Water to be delivered by the United States

1 to the Contractor during the upcoming Year pursuant to this interim renewal contract, and,
2 consistent with subdivision (a) of Article 3 herein.

3 (c) Subject to the conditions set forth in subdivision (a) of Article 3, the
4 United States shall deliver Project Water to the Contractor in accordance with the initial schedule
5 submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto
6 submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to
7 be implemented.

8 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

9 5. (a) The Project Water to be furnished to the Contractor pursuant to this
10 interim renewal contract shall be made available to the Contractor at _____ and
11 any additional point or points of delivery either on Project facilities or another location or
12 locations mutually agreed to in writing by the Contracting Officer and the Contractor.

13 (b) [DISTRICT ISSUE] The Contracting Officer shall make all reasonable
14 efforts to maintain sufficient flows and levels of water in the _____ Canal to
15 furnish Project Water to the Contractor at the turnout(s) established as a delivery point(s)
16 pursuant to (a) of this Article.

17 (c) Irrigation Water furnished to the Contractor pursuant to this interim
18 renewal contract shall be delivered by the Contractor in accordance with any applicable land
19 classification provisions of Federal Reclamation law and the associated regulations. Project
20 Water shall not be delivered to land outside the Contractor's Service Area/boundaries unless
21 approved in advance by the Contracting Officer.

1 (d) All Project Water delivered to the Contractor pursuant to this interim
2 renewal contract shall be measured and recorded with equipment furnished, installed, operated,
3 and maintained by the United States or the responsible Operating Non-Federal Entity at the point
4 or points of delivery established pursuant to subdivision (a) of this Article. Upon the request of
5 either party to this interim renewal contract, the Contracting Officer shall investigate the
6 accuracy of such measurements and shall take any necessary steps to adjust any errors appearing
7 therein. The Contractor shall advise the Contracting Officer on or before the 10th calendar day
8 of each month of the quantity of M&I Water taken during the preceding month.

9 (e) Neither the United States nor any Operating Non-Federal Entity shall be
10 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
11 made available to the Contractor pursuant to this interim renewal contract beyond the delivery
12 points specified in subdivision (a) of this Article. The Contractor shall indemnify the United
13 States its officers, employees, agents, and assigns on account of damage or claim of damage of
14 any nature whatsoever for which there is legal responsibility, including property damage,
15 personal injury, or death arising out of or connected with the control, carriage, handling, use,
16 disposal, or distribution of such Project Water beyond such delivery points, except for any
17 damage or claim arising out of (i) acts performed by the United States or any of its officers,
18 employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the
19 intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the
20 United States or any of its officers, employees, agents, or assigns, including any responsible

1 Operating Non-Federal Entity, or (iii) negligence of the United States or any of its officers,
2 employees, agents, or assigns including any responsible Operating Non-Federal Entity.

3 MEASUREMENT OF WATER WITHIN THE DISTRICT

4 6. (a) [Contract Unique Issue] The Contractor shall ensure that, unless the
5 Contractor has established an alternative measurement program satisfactory to the Contracting
6 Officer, all surface water delivered for irrigation purposes within the Contractor's Service
7 Area/boundaries is measured at each agricultural turnout and such water delivered for municipal
8 and industrial purposes is measured at each municipal and industrial service connection. All
9 water measuring devices or water measuring methods of comparable effectiveness must be
10 acceptable to the Contracting Officer. The Contractor shall be responsible for installing,
11 operating, and maintaining and repairing all such measuring devices and implementing all such
12 water measuring methods at no cost to the United States. The Contractor shall use the
13 information obtained from such water measuring devices or water measuring methods to ensure
14 proper management of the water; to bill water users for water delivered by the Contractor; and, if
15 applicable, to record water delivered for municipal and industrial purposes by customer class as
16 defined in its water conservation plan. Nothing herein contained, however, shall preclude the
17 Contractor from establishing and collecting any charges, assessments, or other revenues
18 authorized by California law. The Contractor shall include a summary of its annual surface
19 water deliveries in the annual report described in subdivision (d) of Article 25.

20 (b) [Contract Unique Issue] To the extent the information has not otherwise
21 been provided, upon execution of this interim renewal contract, the Contractor shall provide to

1 the Contracting Officer a written report describing the measurement devices or water measuring
2 methods used or to be used to implement subdivision (a) of this Article and identifying the
3 agricultural turnouts and the municipal and industrial service connections or alternative
4 measurement programs approved by the Contracting Officer, at which such measurement devices
5 or water measuring methods are being used, and, if applicable, identifying the locations at which
6 such devices and/or methods are not yet being used including a time schedule for implementation
7 at such locations. The Contracting Officer shall advise the Contractor in writing within ninety
8 (90) days as to the adequacy of, and necessary modifications, if any, of the measuring devices or
9 water measuring methods identified in the Contractor's report and if the Contracting Officer does
10 not respond in such time, they shall be deemed adequate. Within six (6) months following the
11 Contracting Officer's response, the parties shall negotiate in good faith the earliest practicable
12 date by which the Contractor shall modify said measuring devices and/or measuring methods as
13 required by the Contracting Officer to ensure compliance with subdivision (a) of this Article.

14 (c) All new surface water delivery systems installed within the Contractor's
15 Service Area/boundaries after the effective date of this interim renewal contract shall also
16 comply with the measurement provisions described in subdivision (a) of this Article.

17 (d) The Contractor shall inform the Contracting Officer and the State of
18 California in writing by April 30 of each Year of the monthly volume of surface water delivered
19 within the Contractor's Service Area/boundaries during the previous Year.

20 RATES AND METHOD OF PAYMENT FOR WATER

1 7. (a) The Contractor shall pay the United States in monthly payments as
2 provided in this Article for the quantities of Delivered Water furnished to the Contractor pursuant
3 to this interim renewal contract. Such payments shall consist of the applicable Rates and
4 Charges determined annually in accordance with applicable Federal law and associated
5 regulations. The Rates and Charges applicable upon execution of this interim renewal contract
6 are set forth in Exhibit "A."

7 (b) The Contracting Officer shall notify the Contractor of the Rates and
8 Charges as follows:

9 (1) Prior to July 1, of each Calendar Year, the Contracting Officer
10 shall provide the Contractor the preliminary calculation of the Charges that will be applied for
11 the period October 1 of the current Calendar Year, through September 30, of the following
12 Calendar Year, and identify the statutes, regulations and guidelines used as the basis for such
13 calculations. On or before September 15 of each Calendar Year, the Contracting Officer shall
14 notify the Contractor in writing of the Charges to be in effect during the period October 1 of the
15 current Calendar Year, through September 30 of the following Calendar Year, and such
16 notification shall revise Exhibit "A."

17 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
18 shall make available to the Contractor an estimate of the Rates of payment for the following Year
19 and the computations and cost allocations upon which those Rates are based. The Contractor
20 shall be allowed not less than two months to review and comment on such computations and cost
21 allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the

1 Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall
2 revise Exhibit "A."

3 (c) At the time the Contractor submits the initial schedule for the delivery of
4 Project Water for each Year pursuant to subdivision (b) of Article 4 of this interim renewal
5 contract, the Contractor shall pay the United States the total amount payable pursuant to the
6 applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this interim
7 renewal contract during the first two (2) calendar months of the Year. Before the end of the first
8 month or part thereof of the Year, and before the end of each calendar month thereafter, the
9 Contractor shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to be
10 delivered pursuant to this interim renewal contract during the second month immediately
11 following. Adjustments between the payments for the scheduled amount of Project Water and
12 the appropriate payments for quantities of Delivered Water furnished pursuant to this interim
13 renewal contract each month shall be made before the end of the following month: Provided,
14 That any revised schedule submitted by the Contractor pursuant to Article 4 which increases the
15 amount of Project Water to be delivered pursuant to this interim renewal contract during any
16 month shall be accompanied with appropriate payment for Rates to assure that Project Water is
17 not furnished to the Contractor in advance of such payment. In any month in which the quantity
18 of Delivered Water furnished to the Contractor pursuant to this interim renewal contract equals
19 the quantity of Project Water scheduled and paid for by the Contractor, no additional Project
20 Water shall be made available to the Contractor unless and until payment of Rates for such
21 additional Project Water is made. Final adjustment between the payments of Rates for the

1 Project Water scheduled and the quantities of Delivered Water furnished during each Year
2 pursuant to its contract shall be made as soon as possible but no later than April 30th of the
3 following Year.

4 (d) The Contractor shall pay all Charges owing for Delivered Water before the
5 end of the month following the month of delivery. Such amounts shall be consistent with the
6 quantities of Irrigation Water and M&I Water shown in the United States' water delivery report
7 for the subject month. The water delivery report shall be regarded by the Contractor as a bill for
8 the payment of appropriate Charges. Any monthly adjustment for overpayment or underpayment
9 of Charges shall be accomplished through the adjustment of Charges due to the United States in
10 the next month. By March 31, of each Year, the Contractor shall make any additional payment
11 of Charges it is obligated to make for Delivered Water furnished to the Contractor pursuant to its
12 contract for the previous Year. The amount to be paid for past due payment of Charges shall be
13 computed pursuant to Article 19 of this interim renewal contract.

14 (e) The Contractor shall pay for any Project Water provided under subdivision
15 (d) or (e) of Article 3 as determined by the Contracting Officer pursuant to applicable statutes,
16 regulations, guidelines, and policies.

17 (f) Payments to be made by the Contractor to the United States under this
18 interim renewal contract may be paid from any revenues available to the Contractor.

19 (g) Revenues received by the United States pursuant to this interim renewal
20 contract shall be allocated and applied in accordance with Federal Reclamation law, including
21 but not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and

1 subsection (f) of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of
2 Section 3407 of the CVPIA, and the associated regulations, including but not limited to, the
3 Project Irrigation Water ratesetting policy and the Project M&I ratesetting policy promulgated
4 pursuant to the Administrative Procedures Act.

5 (h) At the Contractor's request, the Contracting Officer shall provide to the
6 Contractor an accounting of all of the expenses allocated and the disposition of all revenues
7 received pursuant to this interim renewal contract in sufficient detail to allow the Contractor to
8 determine that the allocation of expenses and disposition of all revenues received was
9 accomplished in conformance with Federal Reclamation law and the associated regulations. The
10 Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any
11 discrepancies or disputes arising out of said accounting of the Contractor's review thereof.

12 (i) The parties acknowledge and agree that the efficient administration of this
13 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that
14 mechanisms, policies, and procedures used for establishing Rates and Charges, and/or for
15 making and allocating payments, other than those set forth in this Article would be in the mutual
16 best interest of the parties, it is expressly agreed that the parties may enter into agreements for
17 alternative mechanisms, policies, and procedures for any of those purposes while this interim
18 renewal contract is in effect without amending this contract.

19 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

20 3. [Contract Unique Issue] The Contractor and the Contracting Officer have entered
21 into a written agreement specifying a mutually acceptable mechanism through which the

1 Contractor will retired its outstanding non-interest bearing operation and maintenance deficits.
2 [Alternative Language] The Contractor and the Contracting Officer concur that at the time of
3 execution of this interim renewal contract, the Contractor has no non-interest bearing operation
4 and maintenance deficits and shall have no further liability therefor.

5 TRANSFERS OR EXCHANGES OF WATER

6 9. The right to Project Water provided for in this interim renewal contract may be
7 sold, transferred, or exchanged to others for beneficial uses within the State of California if such
8 sale, transfer or exchange is authorized by applicable Federal laws, State laws, and applicable
9 guidelines or regulations then in effect. The right to sell, transfer, or exchange Project Water
10 shall include, and the Contracting Officer shall apply this Article in a manner that does not
11 impede or restrict, lawful short-term sales, transfers, or exchanges of the type the Contractor
12 historically carried out with approval of the Contracting Officer under Contract No.
13 _____. No sale, transfer, or exchange of the right to Project Water under this
14 interim renewal contract may take place without the prior written approval of the Contracting
15 Officer.

16 APPLICATION OF PAYMENTS AND ADJUSTMENTS

17 10. (a) The amount of any overpayment by the Contractor shall be applied first to
18 any accrued indebtedness arising out of this interim renewal contract then due and payable by the
19 Contractor. Any amount of such overpayment then remaining shall, at the option of the
20 Contractor, be refunded to the Contractor or credited upon amounts to become due to the United
21 States from the Contractor under the provisions hereof in the following months. With respect to

1 overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone
2 having or claiming to have the right to the use of any of the water supply provided for herein.

3 (b) All advances for miscellaneous costs incurred for work requested by the
4 Contractor pursuant to Article 24 shall be adjusted to reflect the actual costs when the work has
5 been completed. If the advances exceed the actual costs incurred, the difference will be refunded
6 to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be
7 billed for the additional costs pursuant to Article 24.

8 TEMPORARY REDUCTIONS--RETURN FLOWS

9 11. (a) Subject to: (i) the authorized purposes and priorities of the Project; and (ii)
10 the obligations of the United States under existing contracts, or renewals thereof, providing for
11 water deliveries from the Project, the Contracting Officer shall make all reasonable efforts to
12 optimize Project Water deliveries to the Contractor as provided in the contract.

13 (b) The United States may temporarily discontinue or reduce the quantity of
14 Project Water to be delivered to the Contractor as herein provided for the purposes of
15 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or
16 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
17 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
18 discontinuance or reduction, except in case of emergency, in which case no notice need be given:
19 Provided, That the United States shall use its best efforts to avoid any discontinuance or
20 reduction in such service. Upon resumption of service after such reduction or discontinuance,
21 and if requested by the Contractor, the United States will, if possible, deliver the quantity of

1 Project Water, which would have been delivered hereunder in the absence of such discontinuance
2 or reduction: Provided further, That with respect to any quantity of Project Water not delivered
3 after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment
4 obligations for such quantity of Project Water.

5 (c) The United States reserves the right to all seepage and return flow water
6 derived from water delivered to the Contractor hereunder which escapes or is discharged beyond
7 the Contractor's Service Area/boundaries: Provided, That this shall not be construed as claiming
8 for the United States any right to seepage or return flow being put to reasonable and beneficial
9 use pursuant to this interim renewal contract within the Contractor's Service Area/boundaries by
10 the Contractor or those claiming by, through, or under the Contractor.

11 WATER SHORTAGE AND APPORTIONMENT

12 12. (a) In its operation of the Project, the Contracting Officer will use all
13 reasonable means to guard against a condition of shortage in the quantity of water to be made
14 available to the Contractor pursuant to this contract. Insofar as determined by the Contracting
15 Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable,
16 notify the Contractor of such determinations as soon as possible.

17 (b) If there is a reduction in the total water supply available to the Contractor
18 during any Year because of errors in physical operations of the Project, drought, other physical
19 causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer
20 to meet legal obligations, no liability shall accrue against the United States or any of its officers,
21 agents, or employees for any damage, direct or indirect, arising therefrom, so long as actions

1 based upon the opinions or determinations of the Contracting Officer are consistent with the
2 standards in Article 18.

3 (c) In any Year in which there may occur a shortage for any of the reasons
4 specified in subdivision (b) above, the Contracting Officer shall apportion the available Project
5 Water supply among the Contractor and others entitled, under existing contracts and future
6 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of
7 Section 3404 of the CVPLA) and renewals thereof, to receive Project Water consistent with the
8 contractual obligations of the United States.

9 (d) [Divisional Issue].

10 UNAVOIDABLE GROUND-WATER PERCOLATION

11 13. The Contractor shall not be deemed to have furnished Irrigation Water to Excess
12 Lands or Ineligible Lands within the meaning of this interim renewal contract if such lands are
13 irrigated with ground water that reaches the underground strata as an unavoidable result of the
14 furnishing of Irrigation Water by the Contractor to Eligible Lands.

15 COMPLIANCE WITH FEDERAL RECLAMATION LAW

16 14. This interim renewal contract shall be implemented in accordance with all
17 applicable provisions of Federal Reclamation law, as amended and supplemented.

18 WATER AND AIR POLLUTION CONTROL

19 15. The Contractor, in carrying out this contract, shall comply with all applicable
20 water and air pollution laws and regulations of the United States and the State of California, and
21 shall obtain all required permits or licenses from the appropriate Federal, State, or local
22 authorities.

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(b) The operation and maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall be responsible for compliance with all State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated through the use of Federal or Contractor facilities or Project Water provided by the Contractor within the Contractor's Service Area/boundaries. This Article shall not affect or alter any legal obligations of the Secretary to provide drainage services.

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1 17. Water or water rights now owned or hereafter acquired by the Contractor other
2 than from the United States and Irrigation Water furnished pursuant to the terms of this interim
3 renewal contract may be simultaneously transported through the same distribution facilities of
4 the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation
5 Water and non-Project water were constructed without funds made available pursuant to Federal
6 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
7 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive
8 Irrigation Water must be established through the certification requirements as specified in the
9 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of
10 Eligible Lands within the Contractor's Service Area/boundaries can be established and the
11 quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate
12 such Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-
13 Project water are constructed with funds made available pursuant to Federal Reclamation law,
14 the non-Project water will be subject to Federal Reclamation law, until such funds have been
15 repaid.

16 OPINIONS AND DETERMINATIONS

17 18. (a) Where the terms of this interim renewal contract provide for actions to be
18 based upon the opinion or determination of either party to this contract, said terms shall not be
19 construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable
20 opinions or determinations. Both parties, notwithstanding any other provisions of this contract,
21 expressly reserve the right to seek relief from and appropriate adjustment, including monetary

1 damages, for any such arbitrary, capricious, or unreasonable opinion or determination. Each
2 opinion or determination by either party shall be provided in a timely manner.

3 (b) The Contracting Officer shall have the right to make determinations
4 necessary to administer this interim renewal contract that are consistent with the expressed and
5 implied provisions of this contract, the laws of the United States and the State of California, and
6 the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall
7 be made in consultation with the Contractor to the extent reasonably practicable.

8 CHARGES FOR DELINQUENT PAYMENTS

9 19. (a) The Contractor shall be subject to interest, administrative, and penalty
10 charges on delinquent installments or payments. When a payment is not received by the due
11 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
12 the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an
13 administrative charge to cover additional costs of billing and processing the delinquent payment.
14 When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty
15 charge of 6 percent per year for each day the payment is delinquent beyond the due date.
16 Further, the Contractor shall pay any fees incurred for debt collection services associated with a
17 delinquent payment.

18 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
19 in the Federal Register by the Department of the Treasury for application to overdue payments,
20 or the interest rate of 0.5 percent per month prescribed by Section 6 of the Reclamation Project
21 Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date
22 and remain fixed for the duration of the delinquent period.

23 (c) When a partial payment on a delinquent account is received, the amount
24 shall be applied, first to the penalty, second to the administrative charges, third to the accrued
25 interest, and finally to the overdue payment.

26 EQUAL OPPORTUNITY

27 20. During the performance of this contract, the Contractor agrees as follows:

1 (1) The Contractor will not discriminate against any employee or applicant for
2 employment because of race, color, religion, sex, or national origin. The Contractor will
3 take affirmative action to ensure that applicants are employed, and that employees are
4 treated during employment, without regard to their race, color, religion, sex, or national
5 origin. Such action shall include, but not be limited to, the following: Employment,
6 upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or
7 termination, rates of payment or other forms of compensation; and selection for training,
8 including apprenticeship. The Contractor agrees to post in conspicuous places, available
9 to employees and applicants for employment, notices to be provided by the Contracting
10 Officer setting forth the provisions of this nondiscrimination clause.

11 (2) The Contractor will, in all solicitations or advertisements for employees
12 placed by or on behalf of the Contractor, state that all qualified applicants will receive
13 consideration for employment without discrimination because of race, color, religion, sex,
14 or national origin.

15 (3) The Contractor will send to each labor union or representative of workers
16 with which it has a collective bargaining agreement or other contract or understanding, a
17 notice, to be provided by the Contracting Officer, advising the said labor union or
18 workers' representative of the Contractor's commitments under Section 202 of Executive
19 Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous
20 places available to employees and applicants for employment.

21 (4) The Contractor will comply with all provisions of Executive Order
22 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and
23 relevant orders of the Secretary of Labor.

24 (5) The Contractor will furnish all information and reports required by said
25 amended Executive Order and by the rules, regulations, and orders of the Secretary of
26 Labor, or pursuant thereto, and will permit access to its books, records, and accounts by
27 the Contracting Officer and the Secretary of Labor for purposes of investigation to
28 ascertain compliance with such rules, regulations, and orders.

29 (6) In the event of the Contractor's noncompliance with the nondiscrimination
30 clauses of this contract or with any of the said rules, regulations, or orders, this contract
31 may be canceled, terminated, or suspended, in whole or in part, and the Contractor may
32 be declared ineligible for further Government contracts in accordance with procedures
33 authorized in said amended Executive Order, and such other sanctions may be imposed
34 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order
35 of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

GENERAL OBLIGATION--BENEFITS
CONDITIONED UPON PAYMENT

21. (a) The obligation of the Contractor to pay the United States as provided in this contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligations to the Contractor.

(b) The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this contract. The United States shall not make water available to the Contractor through project facilities during any period in which the Contractor may be in arrears in the advance payment of water rates due the United States. The Contractor shall not furnish water made available pursuant to this contract for lands or parties which are in arrears in the advance payment of water rates levied or established by the Contractor.

COMPLIANCE WITH CIVIL RIGHTS LAWS
AND REGULATIONS

22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

1 (c) The Contractor makes this agreement in consideration of and for the
2 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
3 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
4 Reclamation, including installment payments after such date on account of arrangements for
5 Federal financial assistance which were approved before such date. The Contractor recognizes
6 and agrees that such Federal assistance will be extended in reliance on the representations and
7 agreements made in this Article, and that the United States reserves the right to seek judicial
8 enforcement thereof.

9 PRIVACY ACT COMPLIANCE

10 23. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
11 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
12 seq.) in maintaining landholder acreage certification and reporting records, required to be
13 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation
14 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.10.

15 (b) With respect to the application and administration of the criminal penalty
16 provisions of the Act (5 U.S.C. 552a(l)), the Contractor and the Contractor's employees
17 responsible for maintaining the certification and reporting records referenced in (a) above are
18 considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

19 (c) The Contracting Officer or a designated representative shall provide the
20 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
21 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--
22 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of
23 information contained in the landholder's certification and reporting records.

24 (d) The Contracting Officer shall designate a full-time employee of the
25 Bureau of Reclamation to be the System Manager who shall be responsible for making decisions
26 on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The
27 Contractor is authorized to grant requests by individuals for access to their own records.

28 (e) The Contractor shall forward promptly to the System Manager each
29 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
30 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
31 Manager with information and records necessary to prepare an appropriate response to the
32 requester. These requirements do not apply to individuals seeking access to their own
33 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.10, unless the
34 requester elects to cite the Privacy Act as a basis for the request.

35 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

24. In addition to all other payments to be made by the Contractor pursuant to this contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this interim renewal contract plus a percentage of such direct costs for administrative and general overhead in accordance with applicable Bureau of Reclamation policy and procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by the Contractor. This Article shall not apply to costs for routine contract administration.

WATER CONSERVATION

25. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this contract, the Contractor shall be implementing an effective water conservation program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria established under Federal law. The water conservation program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives.

(b) Should the combined amount of M&I Water delivered pursuant to subdivision (a) of Article 3 during the term of this interim renewal contract equal or exceed 2,000 acre-feet, the Contractor shall implement the Best Management Practices identified by and the time frames issued by the California Urban Water Conservation Council unless any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1 (c) As part of the water conservation program, the Contractor shall develop
2 and be implementing a tiered block water pricing program that promotes conservation and the
3 efficient management of Project Water during the term of this contract. Such pricing program
4 for Project Water shall take into account all relevant circumstances, including without limitation,
5 water shortages imposed under this interim renewal contract and the availability and cost of the
6 Contractor's and individual water user's non-Project alternative sources of supply, including
7 ground water and other non-Project water supplies, so that the Contractor's pricing structure
8 provides incentives for conservation and the efficient management of overall water supply
9 available to water users served by the Contractor. Provided, That no such tiered block water
10 pricing program need be implemented by the Contractor if the Contracting Officer determines,
11 based on information provided by the Contractor, that (i) such a pricing structure will not result
12 in significant conservation of water available for use within the Contractor's service area,
13 including ground water or (ii) other pricing program, conservation or management measures are
14 more appropriate and/or will result in comparable or better conservation of the water supplies
15 available within the Contractor's boundaries. Provided further, If the Contractor fails to, or elects
16 not to, comply with this subdivision of Article 25, then any subsequent interim renewal contract
17 shall contain a tiered pricing contractual provision pursuant to subsection (d) of Section 3405 of
18 the CVPLA.

19 (d) The Contractor shall submit to the Contracting Officer by
20 December 31, of each Calendar Year, an annual report on the status of its implementation of the
21 water conservation program.

22 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1 26. Except as specifically provided in Article 17 of this contract, the provisions of this
2 interim renewal contract shall not be applicable to or affect water or water rights now owned or
3 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
4 Area/boundaries from other than the United States by the Contractor. Any such water shall not
5 be considered Project Water under this contract. In addition, this interim renewal contract shall
6 not be construed as limiting or curtailing any rights which the Contractor or any water user
7 within the Contractor's Service Area/boundaries acquires or has available under any other
8 contract pursuant to the Federal Reclamation law.

9 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

10 27. [DIVISIONAL ISSUE] (a) The responsibility for performing and, in some cases
11 funding the operation and/or maintenance (O&M) of all or any portion or portions of the
12 [division] facilities may be transferred to an Operating-Non-Federal Entity by one or more
13 separate agreements between the United States and the Operating Non-Federal Entity. Any such
14 agreements shall require the Operating Non-Federal Entity to perform the O&M in compliance
15 with the provisions of this Contract and shall not interfere with the rights and obligations of the
16 Contractor or the United States hereunder.

17 (b) If so notified in writing by the Contracting Officer, the Contractor shall
18 pay directly to such Operating Non-Federal Entity in accordance with such notice, (1) that
19 portion of the Rate (s) to be paid the United States pursuant to this Contract which the
20 Contracting Officer determines is the Contractor's appropriate share of the costs of the O&M of
21 the [division] facilities transferred to the Operating Non-Federal Entity for O&M; and (2) all
22 appropriate additional amounts charged or assessed by the Operating Non-Federal Entity for the
23 O&M of the [division] facilities. Such direct payments to such Operating Non-Federal Entity

1 shall not relieve the Contractor of its obligation to pay directly to the United States its allocated
2 share of the remaining costs for the O&M of the Project.

3 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

4 28. The expenditure or advance of any money or the performance of any obligation of
5 the United States under this contract shall be contingent upon appropriation or allotment of
6 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
7 obligations under this contract. No liability shall accrue to the United States in case funds are
8 not appropriated or allotted.

9 BOOKS, RECORDS, AND REPORTS

10 29. The Contractor shall establish and maintain accounts and other books and records
11 pertaining to administration of the terms and conditions of this contract, including: the
12 Contractor's financial transactions, water supply data, and Project land and right-of-way
13 agreements; the water users' land-use (crop census), landownership, land-leasing and water use
14 data; and other matters that the Contracting Officer may require. Reports thereon shall be
15 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
16 Officer may require. Subject to applicable Federal laws and regulations, each party to this
17 contract shall have the right during office hours to examine and make copies of the other party's
18 books and records relating to matters covered by this contract.

19 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

20 30. (a) The provisions of this contract shall apply to and bind the successors and
21 assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest
22 therein shall be valid until approved in writing by the Contracting Officer.

23 (b) The assignment of any right or interest in this interim renewal contract by
24 either party shall not interfere with the rights or obligations of the other party to this interim
25 renewal contract absent the written concurrence of said other party.

26 SEVERABILITY

27 31. In the event that a person or entity who is neither (i) a party to a Project interim
28 renewal contract, nor (ii) a person or entity that receives Project Water from a party to a Project
29 interim renewal contract, nor (iii) an association or other form of organization whose primary
30 function is to represent parties to Project interim renewal contracts, brings an action in a court of

1 competent jurisdiction challenging the legality or enforceability of a provision included in this
2 interim renewal contract and said person, entity, association, or organization obtains a final court
3 decision holding that such provision is legally invalid or unenforceable and the Contractor has
4 not intervened in that lawsuit in support of the plaintiff(s), the parties to this interim renewal
5 contract shall use their best efforts to (i) within thirty (30) days of the date of such final court
6 decision identify by mutual agreement the provisions in this interim renewal contract which must
7 be revised, and (ii) within three (3) months thereafter promptly agree on the appropriate
8 revision(s). The time periods specified above may be extended by mutual agreement of the
9 parties. Pending the completion of the actions designated above, to the extent it can do so
10 without violating any applicable provisions of law, the United States shall continue to make the
11 quantities of Project Water specified in this interim renewal contract available to the Contractor
12 pursuant to the provisions of this interim renewal contract, which were not found to be legally
13 invalid or unenforceable in the final court decision.

14 OFFICIALS NOT TO BENEFIT

15 32. No Member of or Delegate to Congress, Resident Commissioner, or official of the
16 Contractor shall benefit from this contract other than as a water user or landowner in the same
17 manner as other water users or landowners.

18 CHANGES IN CONTRACTOR'S BOUNDARIES

19 33. While this contract is in effect, no change may be made in the Contractor's
20 boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger or otherwise,
21 except upon the Contracting Officer's written consent.

22 NOTICES

23 34. Any notice, demand, or request authorized or required by this contract shall be
24 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
25 delivered to the Area Manager _____, and on
26 behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors
27 of the _____. The designation of the addressee or the address may
28 be changed by notice given in the same manner as provided in this Article for other notices.

1 IN WITNESS WHEREOF, the parties hereto have executed this interim renewal
2 contract as of the day and year first above written.

3 THE UNITED STATES OF AMERICA

4 By: _____
5 Regional Director, Mid-Pacific Region
6 Bureau of Reclamation

7 (SEAL) NAME OF DISTRICT/ENTITY

8 By: _____
9 President

10 Attest:

11 _____
12 Secretary

APPENDIX C

INTERIM CONTRACTS RENEWAL 2000 BIOLOGICAL OPINION - 3rd QUARTER STATUS REPORTS

JAN 25 2001

MP-150
ENV-1.10

MEMORANDUM

To: Cay Goude, Assistant Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, Sacramento CA

From: Laura Allen
sgd Laura Allen
Deputy Regional Environmental Officer

Subject: 3rd Progress Report for Reclamation's Commitments in the Interim Contract Renewal
Biological Opinion

Enclosed is a table outlining proposed actions, conservation measures, or reasonable and prudent measures contained in the February 29, 2000, Section 7 Consultation Biological Opinion (BO) on U.S. Bureau of Reclamation Renewal of 54 Interim and 14 Friant Contracts (Interim Contract Renewal BO). We submit this table to comply with a Reporting Requirement on page 5-8 of the Interim Contract Renewal BO, which asks for quarterly progress reports on the commitments contained within this BO and any other BO that addresses service area effects of the Central Valley Project (CVP). This report is for the quarter that ended December 31, 2000.

We have also enclosed additional information regarding all Reclamation funded selenium monitoring in the San Joaquin Valley, as you have requested.

If you have any questions about this status report, please call Bob Eckart at 978-5051 or Laura Allen at 978-5047.

Attachment

VER...allennew025 Jan 1991-978-5047
1:100 ECA Interim Contractual memo. vnu

February 2000 Interim Contract Renewal Biological Opinion Commitments or Conservation Measures pg. 1

| Proposed Action/Conservation Measures | Responsibility | Due | Status/Remarks |
|---|----------------|---|---|
| 1. Reclamation will develop and implement programs with the water districts (Districts) to ensure that land use changes associated with project water will be addressed pursuant to ESA. | FWS/USBR | | |
| a. Identify Districts regarding ES requirements of the Interim Opinion. | FWS/USBR | April 28, 2000 | 1a. Completed. Notice sent week of July 3, 2000. |
| b. Synthesize existing and new information on distribution and potential habitat of federally listed, proposed, and candidate species within the Districts. | FWS/USBR | Sept 30, 2000 or ASAP | 1b.c. Ongoing. Cooperative GIS teams from both agencies working on Central Valley Habitat Monitoring Workplan. This timeline in this plan has been revised since the last status report. Phase I expected 3/01, Phase II expected in 6/01. Phase III will occur after Phase II but no expected date has been determined. |
| c. Develop (hard copy and digitized) habitat and potential distribution of listed, proposed, and candidate species, and provide information to the Districts, the Service and the California Department of Fish and Game. | FWS/USBR | Sept 30, 2000 or ASAP | 1c. Both agencies are working together to synthesize the data and finalize habitat maps. |
| d. Evaluate land use changes and ongoing activities in the Districts to ensure that project water is not used in a manner that adversely affects listed, proposed, and candidate species. | FWS/USBR | Sept 30, 2000 or ASAP | 1d. see above |
| 2. Reclamation will ensure that its operation and maintenance activities, as well as activities of other associated with the use of CVP water within the Districts will not adversely affect listed, proposed, and candidate species. | FWS/USBR | | |
| a. Work with the California Department of Pesticide Regulation to develop guidelines and information addressing the effects of the application of pesticides to listed, proposed, and candidate species. | FWS/USBR | March 31, 2000 | 2a. Completed. Memo to Service documenting the pesticide information related to candidate species that Reclamation contributed to CDPR. |
| b. Develop and distribute to the Districts and landowners guidelines on construction and maintenance activities that are not beneficial to listed, proposed, and candidate species. | FWS/USBR | February 28, 2001 | 2b. Pending, but delayed. Rough Draft of CCAO Field Operations Manual was attached to the Oct memo. CCAO is incorporating comments received from FWS on the manual. Draft O&M manual was completed by the SCCAO and distributed to contractors. NCAO is just starting to draft their manual patterned after the SCCAO and CCAO manuals. Rough drafts may be available by Feb. 28th, 2001. |
| c. Review water conservation plans for the Districts prior to implementation to ensure they do not adversely affect listed, proposed, and candidate species. | USBR | Within 3 months of contract renewal | 2c. Ag District Plans were provided in July quarterly report. Printed copies of the urban districts annual reports are available at each Area Office. |
| d. Amend the criteria for water conservation plans to ensure consistency with the ESA. 1) Status Report Update 2) Revise Criteria | USBR | Status May 31, 2000 Revision August 31, 2000 | 2d. The criteria for water conservation plans is amended every 3 years, consistent with the CVPIA. The criteria was amended in 1999, so will not be amended again until 2002. When this commitment was written in February 2000, the opportunity for amending the 1999 criteria had already passed. Reclamation will informally consult with the Service by forming an interagency team that will ensure that the 2002 criteria is in compliance with the ESA. Reclamation will send a memo to the Service and NMFS requesting their participation on the team. |

February 2000 Interim Contract Renewal Biological Opinion Commitments or Conservation Measures pg 2

| Proposed Action/Conservation Measures | Responsibility | Due Date/Time Period | Status/Remarks |
|---|----------------|--|--|
| 3. Reclamation, working with the Service, will implement critically needed action to assure the continued existence of listed and proposed species and their habitats that have been affected by the CVP. | FWS/USBR | ongoing | 3. Ongoing. CVP conservation program (CP) and b(1) other projects. |
| a. Identify lands that are critical to the continued survival of listed species and proposed species | USBR | continue updating | 3a. Ongoing. Last update of high priority species provided to CP from FWS on 1/27/00. Historic trend analysis completed and mapping program discussed in 1bcd above to help identify and prioritize land for conservation easements or acquisition. |
| b. Implement critical needs plan | FWS/USBR | Implementing | 3b. Ongoing |
| c. Develop a long term program to address overall effect of the CVP and implementation of the CVP/A | FWS/USBR | Pursue adequate funding and partners | 4. Ongoing CVP consultations, CVP conservation program and b(1) "other" projects/programs. |
| Reasonable and Prudent Measures | Responsibility | Due Date/Time Period | Status/Remarks |
| I. Develop and implement programs with the Districts in Appendix A of this opinion to ensure that land use activities associated with project water will be addressed pursuant to the USA. | | | |
| A. Work with CDPR to develop guidelines that provide an update on work that has been completed on this measure. In addition, provide information to CDPR generated from ongoing efforts described in Conservation Measure 1(c). | FWS/USBR | March 29, 2000 | A. Completed. Memo to Service describing Reclamation's contribution of ESA information to the CDPR. |
| H. Identify land and water use techniques or measures within a CVP service area which are critically impacting listed and proposed species or their habitats. | | | |
| A. Prepare a study plan to identify the sources of selenium contamination to the Grasslands, San Joaquin River, and south Delta estuary. | USBR | 28 Apr 00 | A. This requirement is already handled through the existing Grassland Bypass Project (GBP) monitoring program. A USGS sources of selenium study for the GBP, funded by Reclamation, began in FY2000 and is not expected to be completed until the end of 2002, at the earliest. The BA Proposed Action for the continuation of the GBP through 2009 has commitments for supporting studies down-river of the project. |
| B. Develop and implement an approved monitoring program to assess the effects of selenium loading within the San Joaquin River on aquatic listed species or their surrogates during the lower San Joaquin River and southern Sacramento-San Joaquin Delta. | USBR | August 31, 2000 | B. Initiated and ongoing. Service biologists have 14 split tail that are being tested for Se, B and other contaminants. A report will be generated after the lab results are in. The BA Proposed Action for the continuation of the GBP through 2009 has commitments for supporting Se studies and monitoring to assess the effects of selenium loading within the San Joaquin River on aquatic listed species or their surrogates. |
| C. Provide quarterly reports on locations of monitoring and mean standard for wetland water supplies in the Grasslands, and at least one report either directly or indirectly from Reclamation actions will identify and implement corrective actions and habitats as possible formal consultation. | USBR | December 31, 1999, March 31, 2000, June 30, 2000, September 30, 2000 | C. See IIA - the reporting measure is handled with the existing GBP monitoring program and existing quarterly reports. Corrective actions were made in previous years and continue to be monitored through the GBP monitoring program, which includes Service biologists, who receive the monthly averages at the same time as Reclamation. All inlets from the Grasslands Project Area to the wetland channels have been plugged since April 21, 1998 and monthly selenium averages have only exceeded 2 ppb occasionally since then and the exceedences have been less than 1 ppb. Those exceedences are not directly or indirectly tied to Reclamation actions because Reclamation has aggressively prevented selenium drainage from entering the wetlands. |

February 2000 Interim Contract Renewal Biological Opinion Commitments or Conservation Measures pg 3

| Reasonable and Prudent Measures | Responsibility | Due Date/Time Period | Status/Remarks |
|---|----------------|--|---|
| <p>III. Identify, analyze and compensate for past effects since 1991 for Friant and 1995 for Interim contractors.</p> <p>A. Identify and analyze the impacts of changes to contract service area boundaries since 1991 for any Friant contracts that have not undergone section 7 consultation. Fully compensate for any impacts associated with past water allocations of Interim or Friant Div. water allocations.</p> <p>B. Identify and analyze the impacts of changes to contract service area boundaries since 1995 for interim contractors and provide this information and associated GIS data layers. Fully compensate for any impacts associated with past changes to contract service area boundaries for interim contracts.</p> <p>C. Identify and analyze the impacts of changes in purpose of use since 1991 for Friant contractors and 1995 for Interim contractors and provide this information and analysis. Provide an analysis on how changes in purpose of use will affect droughts to districts, and how these changes in allocations will affect CVP wide water supplies under drought conditions.</p> <p>D. Identify and analyze the impacts of all water assignments executed since 1991 for Friant contractors and 1995 for Interim contractors and provide this information. Fully compensate for any impacts associated with past water allocations of Interim or Friant Division water allocations.</p> | USBR | Prior to initiation of consultation (cons) for Iter | A. Information and analysis ongoing. Information will be provided in BA's for Long-Term contract renewal (LTCR). All Friant contract service area boundary changes have been consulted on. |
| <p>IV. Consult on future actions including changes in purpose of use of contracts, transfers involving Interim for Friant Div. contractors assignments, and inclusions, annexations and exclusions to contract service area boundaries.</p> <p>A. Consult on future changes in water contracts from agriculture only to agriculture/M&I purposes.</p> <p>B. Provide an analysis of how future changes in purpose of use will affect shortages to districts and how these change in allocations will affect CVP wide water supplies under drought conditions.</p> <p>C. No execution of future changes in purpose of use unless it can be shown that such changes will not reduce under drought condition water supplies for proposed or listed species.</p> <p>D. Informal consultation for assignments of Interim and Friant Divisions that may affect listed species. Consult formally for those contracts or actions with direct or indirect effects that are likely to adversely affect listed species, or result in take. Consult informally if an action will not affect listed species prior to signing of the FWSM or ROD.</p> | USBR | Prior to Iter or an additional interim period. | <p>B. Information and analysis ongoing. Draft maps for interim contract service areas were provide to FWS in May showing boundaries changes since '95 and acreage changes by district. Information will be provided in BA's for Long-Term contract renewal</p> <p>C. The 1995 Interim contract renewal consultation included change of purpose of use from ag to M&I. Analysis of shortages should be included in the NEPA document and BA for that action. In general the ag shortage provisions remain even if purpose of use converted to M&I.</p> <p>D. Information and analysis ongoing.</p> |
| <p>IV. Consult on future actions including changes in purpose of use of contracts, transfers involving Interim for Friant Div. contractors assignments, and inclusions, annexations and exclusions to contract service area boundaries.</p> <p>A. Consult on future changes in water contracts from agriculture only to agriculture/M&I purposes.</p> <p>B. Provide an analysis of how future changes in purpose of use will affect shortages to districts and how these change in allocations will affect CVP wide water supplies under drought conditions.</p> <p>C. No execution of future changes in purpose of use unless it can be shown that such changes will not reduce under drought condition water supplies for proposed or listed species.</p> <p>D. Informal consultation for assignments of Interim and Friant Divisions that may affect listed species. Consult formally for those contracts or actions with direct or indirect effects that are likely to adversely affect listed species, or result in take. Consult informally if an action will not affect listed species prior to signing of the FWSM or ROD.</p> | USBR | Due Date Not Applicable | IV. Will occur when applicable |
| <p>IV. Consult on future actions including changes in purpose of use of contracts, transfers involving Interim for Friant Div. contractors assignments, and inclusions, annexations and exclusions to contract service area boundaries.</p> <p>A. Consult on future changes in water contracts from agriculture only to agriculture/M&I purposes.</p> <p>B. Provide an analysis of how future changes in purpose of use will affect shortages to districts and how these change in allocations will affect CVP wide water supplies under drought conditions.</p> <p>C. No execution of future changes in purpose of use unless it can be shown that such changes will not reduce under drought condition water supplies for proposed or listed species.</p> <p>D. Informal consultation for assignments of Interim and Friant Divisions that may affect listed species. Consult formally for those contracts or actions with direct or indirect effects that are likely to adversely affect listed species, or result in take. Consult informally if an action will not affect listed species prior to signing of the FWSM or ROD.</p> | USBR | | A. Will occur when applicable |
| <p>IV. Consult on future actions including changes in purpose of use of contracts, transfers involving Interim for Friant Div. contractors assignments, and inclusions, annexations and exclusions to contract service area boundaries.</p> <p>A. Consult on future changes in water contracts from agriculture only to agriculture/M&I purposes.</p> <p>B. Provide an analysis of how future changes in purpose of use will affect shortages to districts and how these change in allocations will affect CVP wide water supplies under drought conditions.</p> <p>C. No execution of future changes in purpose of use unless it can be shown that such changes will not reduce under drought condition water supplies for proposed or listed species.</p> <p>D. Informal consultation for assignments of Interim and Friant Divisions that may affect listed species. Consult formally for those contracts or actions with direct or indirect effects that are likely to adversely affect listed species, or result in take. Consult informally if an action will not affect listed species prior to signing of the FWSM or ROD.</p> | USBR | | <p>B. June 9, 1997 joint letter on CVPIA administrative proposal on urban water supply reliability stated that ag shortage provisions remain even if converted to M&I. M&I water in the districts up for renewal that are granted M&I priority has not changed since the OCAP consultation (1992)</p> <p>C. See B.</p> |
| <p>IV. Consult on future actions including changes in purpose of use of contracts, transfers involving Interim for Friant Div. contractors assignments, and inclusions, annexations and exclusions to contract service area boundaries.</p> <p>A. Consult on future changes in water contracts from agriculture only to agriculture/M&I purposes.</p> <p>B. Provide an analysis of how future changes in purpose of use will affect shortages to districts and how these change in allocations will affect CVP wide water supplies under drought conditions.</p> <p>C. No execution of future changes in purpose of use unless it can be shown that such changes will not reduce under drought condition water supplies for proposed or listed species.</p> <p>D. Informal consultation for assignments of Interim and Friant Divisions that may affect listed species. Consult formally for those contracts or actions with direct or indirect effects that are likely to adversely affect listed species, or result in take. Consult informally if an action will not affect listed species prior to signing of the FWSM or ROD.</p> | USBR | | D. Will occur when applicable |

February 2000 Interim Contract Renewal Biological Opinion Commitments or Conservation Measures pg 4

| Responsible and Prudent Measures | Responsibility | Due Date/Time Period | Status/Remarks |
|--|----------------|----------------------|--|
| E. Informal consultation for inclusions or annexations involving the Interim and Friant contractors in this opinion that may affect listed species. Formally consult for those inclusions with direct or indirect effects that are likely to adversely affect listed species or result in take. Informal consultation will determine if the inclusions or annexations will not affect listed species prior to signing of the FONSI or RSP. | USBR | | E. Will occur when applicable |
| F. Apply specific criteria to all transfers involving Interim or Friant Divisions contracts that have not already under gone section 7 consultation. | USBR | | F. Will occur when applicable. Note: the correct language for this provision is on page 2-10, not this language. |
| V. Develop and implement a program to compensate for losses of listed species habitat that occur as a result of delivery of ACP water to the Interim & Friant Div. Contract service area. | USBR | | V. In Development. Mitigation plan for impacts directly related to discretionary Reclamation actions. |
| A. Establish a contingency plan that would develop and implement a process to identify impacts and then address those impacts to listed species or their habitats within the Interim and Friant Divisions' contract service area that occur as a result of delivering ACP water to contractors. | USBR/CONTR | | A. SCCAO has developed a draft compensation plan for the Friant contractors in which incentives are used to reduce the amount of land converted and compensation will take the form of fee title acquisition, conservation easements, land retirement, and enhancement of existing preserved lands. For other Interim contractors, MIP-150 is drafting a similar plan. Where appropriate, it will incorporate the adaptive mgt and monitoring plan in development by Mike Frits. |
| B. Friant's implementation of the contingency plan to address impacts to species or their habitats within the Interim and Friant Divisions' contract service area that occur without a FWS incidental take authorization. | USBR/CONTR | | B. Once the contingency plans are finalized, steps will be made to ensure they are implemented at each of the Area Offices and that all contractors are made aware of their responsibilities under the plans. |
| C. The contingency plan for impacts to listed species or their habitat will be reviewed in a section 7 consultation with the FWS and will incorporate compensation for temporal and other habitat losses. Cases of listed species habitat within the Interim and Friant contract service areas will be compensated at rates consistent with the recovery needs for those listed species. | USBR/FWS | | C. The contingency plans will be coordinated with the FWS and the appropriate (formal or informal) Section 7 consultation will occur after finalization. |

Enclosure 1:

Selenium monitoring programs conducted in conjunction with the Grasslands Bypass Project are as follows:

Grasslands Bypass Project Monitoring Program: This program is a joint effort between the US Bureau of Reclamation, the San Luis & Delta-Mendota Water Authority, the US Fish & Wildlife Service, the US Environmental Protection Agency, the US Geological Survey, the Central Valley Regional Water Quality Control Board and the California Department of Fish & Game. Monitoring data is reviewed monthly by the Data Collection and Reporting Team and distributed monthly to the public in hard copy format and at the project website <http://www.mpr.usbr.gov/mpl50/grassland/index.html>. Quarterly narrative and graphical data summary reports are prepared to provide an overview of the data collected in the most recent quarter of the Grassland Bypass Project. These reports are distributed to the public and on the website. An annual summary report is prepared and distributed to the public and on the website. This annual report consists of technical chapters prepared by the agency staff responsible for each portion of the Grassland Bypass monitoring program. The chapters are:

- Summary
- Drainage Control Activities by Grassland Area Farmers
- Flow and Salinity Monitoring
- Water Quality Monitoring
- Flow, Salt and Selenium Mass Balances in the San Luis Drain
- Project Impacts on the San Joaquin River
- Biological Effects
- Biomonitoring Program
- Sediment Monitoring
- Sediment Quantity in the San Luis Drain
- Quality Control

All reports are compiled by the San Francisco Estuary Institute under contract to the US Bureau of Reclamation. Components of the monitoring program include:

1. Continuous Monitoring
 - a. Station A (Inflow to the San Luis Drain)
 - b. Station B (discharge from the San Luis Drain)
 - c. Station D (Mud Slough North downstream of drainage discharge)
 - d. Station F (Salt Slough at Highway 165)
 - e. Station N (San Joaquin River at Crow's Landing)

Daily selenium loads are calculated at the compliance point, Site B.

1. Weekly Monitoring
 - a. Station A (Inflow to the San Luis Drain) taken from grab samples
 - b. Station A (Inflow to the San Luis Drain) taken from composite samples
 - c. Station B (discharge from the San Luis Drain)

- d. Station C (Mud Slough North upstream of drainage discharge)
 - e. Station D (Mud Slough North downstream of drainage discharge)
 - f. Station F (Salt Slough at Highway 165)
 - g. Station G (San Joaquin River at Fremont Ford)
 - h. Station H (San Joaquin River at Hills Ferry)
 - i. Station J (Camp 13 Ditch), water supply to south grasslands
 - j. Station K (Agatha Canal), water supply to south grasslands
 - k. Station L2 (San Luis Canal at splits), water supply within grasslands
 - l. Station M2 (Santa Fe Canal at weir), water supply within grasslands
 - m. Station N (San Joaquin River at Crows Landing)
3. Monthly Monitoring
- a. Fathead minnow (*Pimephales promelas*) larvae survival in 7-day tests using water samples collected from Sites B, C, D, F and control
 - b. Fathead minnow (*Pimephales promelas*) larvae growth in 7-day tests using water samples collected from Sites B, C, D, F and control
 - c. Daphnia Magna survival in 7-day tests using water samples collected from Sites B, C, D, F and control
 - d. Daphnia Magna reproduction in 7-day tests using water samples collected from Sites B, C, D, F and control
 - e. *Selenastrum capricornutum* growth in 4-day tests using water samples collected from Sites B, C, D, F and control
 - f. Selenium concentrations in grab water samples collected at study stations for use in laboratory toxicity tests.
 - g. Sulfate concentrations in grab water samples collected at study stations for use in laboratory toxicity tests.
 - h. Total suspended solids concentrations in grab water samples collected at study stations for use in laboratory toxicity tests.
4. Quarterly Monitoring
- a. Biological monitoring of fish tissue, invertebrates, fish eggs and bird eggs at Stations C, D, E (Mud Slough North at Highway 140), F, G, H and I (Mud Slough North backwater site below the Drain discharge)
 - b. Sediment quality monitoring at Stations A, B, C, D, E and F. Stations I as well as locations within the San Luis Drain are sampled annually.
5. Annual Monitoring
- a. Sediment quantity within the San Luis Drain.

Grassland Area Farmers Monitoring Program: The Grassland Area Farmers have their own internal monitoring program. Selenium load allocations have been assigned to each member. These load allocations are used for members to keep track of their discharge and to be used as part of the selenium trading program that has been developed. The location of the internal sites are upstream of the discharge into the San Luis Drain Site A, and are located at the main regional discharge points. At these regional locations there are...

measurements. At district discharge points there is continuous flow and weekly quality measurements. In addition drainage sumps within each district are monitored for flow and quality. The districts tabulate this information for use in managing drainage within their boundaries.

Of the four districts that are the subject of the proposed contract renewal action reviewed in the biological assessment, Broadview Water District monitors its sumps and district discharge. Eagle Field, Oro Loma and Mercy Springs Water Districts are within the Panoche Drainage District. Flows from sumps are monitored by Panoche but are tabulated so discharges from these districts can be determined. The allocated load identified in paragraph 3 above has been calculated for the districts in the same manner that it was calculated for Panoche Drainage District.

Sumps that are not in districts are monitored by the regional drainage entity. This monitoring program allows for quantification of selenium in drainage reaching Grassland Bypass Channel that does not come from Grassland Area Farmers.

Regional Board Reports: Separate from the Grasslands Bypass monitoring program the Regional Board publishes monitoring data. This data is published in annual reports. The most recent reports are titled "Agricultural Drainage Contribution to the Water Quality in the Grassland Watershed of western Merced County, California: October 1997 - September 1998 (Water Year 1998)" and dated May 2000 and "Water Quality of the Lower San Joaquin River: Lander Avenue to Vernalis, October 1997 - September 1998 (Water Year 1998)" and dated May 2000. These reports are available beginning in May of 1985. These reports are available beginning in May of 1985. They are available on the Regional Board web page at <http://www.swrcb.ca.gov/~rwqcb5/index.html>.

USBR Monitoring of Water Quality in the DMC: The USBR monitors flow and water quality within the Delta-Mendota Canal as it passes through the Grassland Area. Included in this monitoring is the discharge from drainage sumps that discharge into the DMC. At times the concentration of DMC water exceeds the 2 ppb selenium standard for delivery into the refuges.

Sources of Selenium Study: As a result of high rainfall events in water years 1997 and 1998 the

Oversight Committee for the Grassland Bypass Project commissioned a "Sources of Selenium" study to identify the sources of the drainage discharge through the Grassland Bypass Project. The scope was limited to discharge from the Grassland Drainage Area and upstream impacts. There are three Tasks to the study: I. Data Compilation and Interpretation, II. Development of a District-Level Water Balance and Selenium Load Model for the Grasslands Area of the Western San Joaquin Valley and III. Development of a Transient, Three-Dimensional Groundwater Flow Model for the Grasslands and Adjacent Areas of the Western San Joaquin Valley. Task I was completed in January 2000 and the remaining Tasks II and III are set to be completed by October 2000.

APPENDIX D

RESPONSES TO COMMENTS ON THE DRAFT 2001 SUPPLEMENTAL EA

Introduction

The draft supplemental EA for the renewal of 2001 interim contracts for one year, between March 1, 2001 through February 28, 2002, was circulated for public and agency review for 18 days from February 2, 2001 to February 20, 2001. The final supplemental EA provides response to comments received on the draft supplemental 2001 EA. This appendix includes a list of the comment letters, the comment letters, and responses to the substantive environmental issues raised in the comments.

No new impacts were identified, nor was there an increase in the severity of previously identified impacts.

List of Comment Letters

| Letter Reference | Commentor |
|------------------|---|
| A | Jon D. Rubin, Duane, Morris & Heckscher LLP, Attorney for Santa Clara Valley Water District, Pajaro Valley Water District Management Agency, and Widren Water District. |
| B | Diane V. Rathmann, Linneman, Burgess, Telles, Van Atta & Vierra, for San Luis 7 Delta-Mendota Water Authority. |
| C, . | Jeanne M. Zolezzi, Attorney-at-Law, Herum Crabtree, Brown, Dyer, Zolezzi, Terpstra. |

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February 20, 2001

VIA FACSIMILE

Mr. Frank Michny
2800 Cottage Way
Sacramento, CA 95825-1898

Re: Draft Supplemental Environmental Assessment and Draft Finding of
No Significant Impact

Dear Mr. Michny:

Pursuant the February 2, 2001 News Release, Santa Clara Valley Water District ("SCVWD"), Pajaro Valley Water Management Agency ("PVWMA") and Widren Water District ("Widren") hereby propose two revisions to the Draft Supplemental Environmental Assessment and Draft Finding of No Significant Impact prepared for Central Valley Project Interim Renewal Contracts. The proposed changes are intended to allow for a more accurate reflection of existing circumstances.

First, Widren requests that page 1-10 be revised as follows (additions indicated in bold, deletions indicated by strikeout):

Widren Water District Assignment: Assignment of water from the Widren Water District to the ~~area~~ City of Tracy has been considered in the past and a proposal was developed. In April 2000, however, the Widren Water District withdrew its request for the assignment, and all work regarding this assignment permanently ceased. ~~As a result of on-going litigation between local, non-federal interests regarding this assignment, no final action has been taken by Reclamation. This action has been suspended until the dispute has been resolved. No action is expected in the immediate future. Should the issues under question be resolved and~~ Widren Water District seek another assignment of its contract, another proposal for assignment would be presented to Reclamation, and Reclamation would initiate consultation with USFWS to address concerns about potential impacts to listed

A-1

Mr. Frank Michny
February 20, 2001
Page 2

~~species. Evaluation of this action and consultation with USFWS would be required to conducted as part of a separate environmental review process.~~

Underline and italics in original).

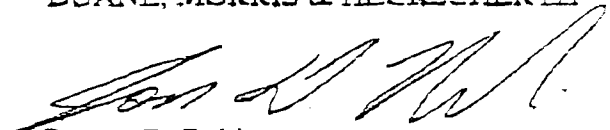
Second, SCVWD and PVWMA request that the following revision be made to page 3-1 additions indicated in bold, deletions indicated by strikeout):

Potential impacts arising from ~~the future~~ assignments of water, ~~such as those by the Mercy Springs or Widren water districts, as previously described, would be subject to separate environmental review processes~~ **must comply with the requirements of the National Environmental Policy Act and/or California Environmental Quality Act, and therefore, are not addressed in this document.**

A-2

Thank you for your consideration of these comments.

Sincerely,
DUANE, MORRIS & HECKSCHER LLP



By Jon D. Rubin
Attorneys for Santa Clara Valley Water
District, Pajaro Water Valley Water
Management Agency, and Widren Water
District

cc: Joan Maher, SCVWD
Charles McNiesh, PVWMA
Douglas A. Unruh, Widren
Thomas M. Berliner
Nicole A. Turr

Response to Comment Letter A

Response to Comment A-1:

Suggested changes incorporated in section 1.5.3 of the Final 2001 Supplemental EA.

Response to Comment A-2:

Suggested changes to the second paragraph of the 2000 Supplemental EA incorporated in the 2001 Supplemental EA at the beginning of Chapter 3.

Mr. Frank Michny

February 20, 2001

Re: DSEA for the Renewal of Interim Water Service Contracts

Page: 2

**General Comments of the
San Luis & Delta-Mendota Water Authority (SLDMWA)**

Page 2-5: The members of the SLDMWA point out that Alternative 2 has been rejected on policy grounds as an appropriate mechanism for implementation of the tiered pricing provisions of CVPIA in the recently-executed Friant Division Long-Term Renewal Contracts, in the CVP-wide form of Long-Term Renewal Contract, and in the 11/17-2000 draft negotiated for Delta-Mendota Unit Long-Term Renewal Contracts (collectively, the Long-Term Renewal Contracts). In addition, the alternative concerning water quantity was rejected by CVP contractors and has not been adopted in any of these same negotiated long-term contracts. It is therefore could not be viewed as a preferred alternative.

B-2

Page 2-6: "G. Water Conservation" is confusing, where it states: "unless exempted, contractors shall use incentive pricing, according to the contractors' water conservation plans, rather than an internal tiered pricing program." Under existing interim renewal contracts (IRC's), contractors are required to implement incentive pricing under their water conservation plans, but not CVPIA tiered pricing, which applies only to contracts longer than 3 years. In the Long-Term Renewal Contracts, tiered pricing mandated by CVPIA has replaced any contract requirement for incentive pricing under water conservation plans. The reference to "an internal tiered pricing program" is not clear.

B-3

Page 3-3: The discussion of water supply in 3.1.2 is not accurate. Even considering averaged deliveries over the past 5 years, contractors south of the Delta have received an average 82% CVP water supply. If the text is relying on long-term projections contained in the Programmatic Environmental Impact Statement (PEIS), it needs to identify that document and qualify the broad statement. Furthermore, the discussion about shifting sources of supply is applicable in areas of available ground water; in other areas, in particular given the competition for available south-of-Delta supplies created by the Environmental Water Account currently established under the CalFed Program, together with purchases for Level 4 refuge supplies, increased pricing incentives for CVP water would very possibly mean that there could be no shift from CVP supplies, but that economic impacts would be greater.

B-4

Page 3-4: In the second paragraph under 3.3.1, the listing of measures to address biological concerns omits the annual dedication of 800,000 acre feet of CVP yield under Section 3406(b)(2) of the CVPIA—a huge commitment that comes directly at the expense of south-of-Delta contractors. The fifth paragraph under 3.3.1 speaks of a Biological Opinion to address potential CVP-wide impacts as evaluated in the PEIS. If this means the November, 2000, Biological Opinion on Implementation of the CVPIA, the text should be updated to identify that document; if it means some other BO, what is that?

B-5

Page 3-3: In section 3.3.2, the assessment of economic impacts from implementing Alternative 2 should go farther to look at cumulative impacts of conditions facing contractors and their water

Mr. Frank Michny

February 20, 2001

Re: DSEA for the Renewal of Interim Water Service Contracts

Page: 3

users during the one-year period of the proposed interim renewals. Given projected water shortages, projected power rate increases and current crop prices, increased incentive pricing during this year could produce permanent impacts by forcing farm operations to go out of business. The analysis correctly notes that ability to pay relief could not be forthcoming, unless it were enacted on some emergency basis.

B-6

Response to Comment Letter B

Response to comment B-1:

Our determination and conclusions are provided in the Finding of No Significant Impact (FONSI). We have used the Supplemental EA to present the information and impact analysis to support the conclusion(s) in the FONSI.

Response to comments B-2, B-3, B-4, B-6:

Comment noted. In the 2001 Supplemental EA, the alternative considered was continuation of existing interim contracts. In section 2.1.2 of this EA, a statement was added to clarify that alternative 2 from the 2000 supplemental EA was not evaluated in the 2001 Supplemental EA.

Response to comment B-5:

Text of the 2001 Supplemental EA was updated to reflect these suggestions. See section 3.3.1.

HERUM CRABTREE

BROWN DYER

ZOLEZZI TERPSTRA

Jeanne M. Zolezzi
jzolezzi@herumcrabtree.com

February 21, 2001

VIA FACSIMILE

Mr. Frank Michney
Bureau of Reclamation
2800 Cottage Way
Sacramento CA, 95825-1898.

Re: Comments on Supplemental 2001
Environmental Assessment for Interim Water Service Contracts

Dear Frank:

I have reviewed the Supplemental 2001 Environmental Assessment for Interim Water Service Contracts on behalf of The West Side Irrigation District and have the following comments:

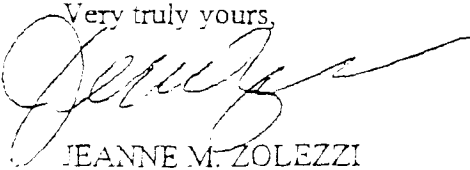
Section 1.5.2. of the "Issues Related to CVP Water Use Under the Proposed Interim Contracts" states that:

"No changes to district boundaries are part of the proposed action and the boundaries in place, as of the date of this document, will remain the same through February 28, 2002."

C-1

This is not necessarily the case. WSID is aware of pending detachment requests made by landowners in the district to the San Joaquin County Local Agency Formation Commission. WSID has no say in the detachment, and is ordinarily notified of the detachment once it has taken place. WSID notifies the Bureau of Reclamation as soon as it is informed of such actions.

Very truly yours,



JEANNE M. ZOLEZZI
Attorney-at-Law

JMZ:rl

cc: Ms. Barbara Kleinert, The West Side Irrigation District

Response to Comment Letter C

Response to comment C-1:

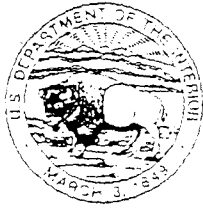
In section 1.5.2 of the 2001 final Supplemental EA, clarifying language was incorporated for potential changes to district boundaries. Refer to changes in section 1.5.2 of the final Supplemental EA.

APPENDIX E

US FISH AND WILDLIFE SERVICE CONCURRENCE MEMORANDUM

I

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United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825

IN REPLY REFER TO:
1-1-01-I-1211

February 28, 2001

Memorandum

To: Regional Director, Mid-Pacific Region, Bureau of Reclamation

From: Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California

Subject: Section 7 Compliance Under the Endangered Species Act for the Interim Renewal of Specific CVP Water Service Contracts from March 2001 to February 2002

This memorandum is in response to your January 2001 request for formal consultation with the Sacramento Fish and Wildlife Office (SFWO) on renewal of interim Central Valley Project (CVP) water contracts for specific CVP contractors (provided in Attachment 1) for the period March 1, 2001 to February 28, 2002. We have decided to extend the existing Interim Renewal Contract biological opinion (2000 Interim Opinion), dated February 29, 2000 (Service File No. 1-1-00-F-0056), for the period March 1, 2001 to February 28, 2002. The 2000 Interim opinion covered some CVP contracts which are now covered in the formal consultations for the Friant Division and Cross Valley Units dated January 20, 2001 (Service File No. 1-1-01-F-0027) and Hidden and Buchanan Unit dated February 14, 2001 (Service File No. 1-1-01-F-0048). The districts which have completed section 7 consultation and have signed 25-year long term water contracts will not need interim contracts and are excluded from this extension. Some of the districts, identified by asterisks in Appendix 1, which were included in the 25-year long term water contract biological opinions mentioned above do not as yet have signed water contracts and will require interim contracts and ESA coverage through this consultation. The Service based the decision to extend the existing the 2000 Interim Renewal Contract biological opinion on the following:

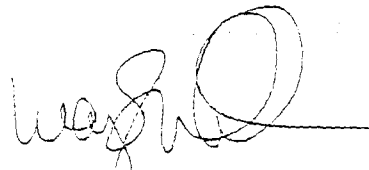
- careful consideration of the proposed action identified in your Draft Supplemental Environmental Assessment, dated February 2001, and additional information provided by Reclamation.
- the single year period for the proposed action,
- no new federally listed species or designated critical habitat have been added to the project area since completion of the 2000 Interim Renewal Contract biological opinion.

- except for CVP interim contractors converted to long-term 25-year contracts, the Service has completed an internal analysis of the proposed action and determined that it remains consistent with that found in the 2000 Interim Renewal Contract biological opinion,
- these water contracts will be renewed for long-term or additional interim periods that will include consultation under Section 7 of the Endangered Species Act,
- Reclamation's continued commitment to, and accomplishment of, *Conservation Measures* and *Terms and Conditions* provided in the 2000 Interim Renewal Contract biological opinion and those found in other recent associated biological opinions,
- Reclamation's commitment to provide a level of funding and effort consistent with levels identified in the biological opinion for *Implementation of the CVPLA and Continued Operation and Maintenance of the CVP* (Service No. 1-1-98-F-0124) as follows:
 - Reclamation will provide an additional \$450,000 from their portion of the fiscal year 2001 CVPLA budget to fund efforts associated with the Habitat Restoration Program, established under section 3406(b)(1) of the Central Valley Project Improvement Act. This action, when added to the existing budget of the Habitat Restoration Program (\$600,000), will provide for a total of \$1,050,000. This additional funding will be provided after joint approval by both Reclamation and the Service.
 - Reclamation assumes it will be able to make the CVP Conservation Program whole for fiscal year 2001, which was \$2.26 million in fiscal year 1999 and \$2.40 million in fiscal year 2000. If this is not achieved, Reclamation may need to reinitiate consultation under ESA.
- The Service's commitment to provide a level of funding and effort consistent with levels identified in the biological opinion for *Implementation of the CVPLA and Continued Operation and Maintenance of the CVP* (Service No. 1-1-98-F-0124) as follows:
 - The Service will provide an additional \$450,000 from our portion of the fiscal year 2001 CVPLA budget to fund efforts under the Habitat Restoration Program, established under section 3406(b)(1) of the Central Valley Project Improvement Act. This action, when added to the budget of the Habitat Restoration Program identified above (\$1,050,000), will provide for an overall total of \$1,500,000. This additional funding will be provided after joint approval by both Reclamation and the Service.

In addition, the Service concurs with Reclamation's conclusion, in a memorandum dated February 28, 2001, that execution of the partial assignment of CVP contract water supply to the Mercy Springs Water District, an interim CVP water contractor, to the Santa Clara Valley Water District and Westlands Water District for use of up to 6,260 acre-feet of CVP for 1 year from March 1, 2001 to February 28, 2002, is not likely to adversely affect federally listed species. The Service reached this conclusion based on the bulleted items above, and Reclamation's commitment to include the section 7 review and analysis of the Mercy Springs partial assignment during the section 7 consultation on long-term renewal of the Delta Mendota Canal Unit or in additional interim contract period, whichever comes first.

We find this year-long extension of the 2000 Interim Renewal Contract biological opinion to be appropriate. This extension will provide a reasonable addition of time to meet the existing commitments related to *Conservation Measures and Terms and Conditions* and is based on the assumption Reclamation and the Service will immediately convene the Coordination Team consistent with the biological opinion on *Implementation of the CVPLA and Continued Operation and Maintenance of the CVP* (Service File No. 1-1-98-F-0124), dated November 21, 2000 to further the purposes of ESA. This Team will, among other duties, provide guidance on the continued implementation of all associated *Conservation Measures and Terms and Conditions* associated with Interim Renewal of CVP contracts.

As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (2) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (3) a new species is listed or critical habitat designated that may be affected by the action. If you have any questions, please contact Cay Coude, Assistant Field Supervisor for the Endangered Species Division, at (916) 414-6648.



Wayne S. White

Attachment

APPENDIX F

**NATIONAL MARINE FISHERIES SERVICE
CONCURRENCE LETTER**

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

February 27, 2001

In Response Refer To:
SWR-01-SA-0023:MEA

Mr. Frank Michny
Regional Environmental Offices
U.S. Bureau of Reclamation
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

Dear Mr. Michny:

This is in response to your letter of January 31, 2001 initiating informal consultation under the Endangered Species Act for execution of 44 interim Central Valley Project (CVP) water service contracts for the period of February 2001 to February 2002. A draft Environmental Assessment (EA) and draft Finding of No Significant Impact (FONSI) for the renewal of these interim water service contracts through February 28, 2002 was subsequently submitted to the National Marine Fisheries Service (NMFS) via letter dated February 6, 2001 (received February 7, 2001). Enclosed with the draft EA and draft FONSI was the Bureau of Reclamations (Reclamations) Water Supply Outlook for Water Year 2001.

Species, under the jurisdiction of the NMFS, which may be affected by Reclamation's proposed action are: 1) endangered Winter-run chinook salmon (*Oncorhynchus tshawytscha*); 2) threatened Central Valley Spring-run chinook salmon (*O. tshawytscha*); 3) threatened Central Valley Steelhead (*O. mykiss*); and, 4) threatened Southern Oregon/Northern California Coast coho salmon (*O. kisutch*). In addition, designated critical habitat for these species may be affected by the proposed action.

Reclamation has determined that executing these interim contracts, in and of themselves, will likely have no adverse effect on winter-run chinook salmon, spring-run chinook salmon, coho salmon, or steelhead. Reclamation's determination is based on the following:

- (1) Contract amounts are limited to established needs or existing contract amounts, whichever is less. There will be no increase in total deliveries.
- (2) Contracts will be for 1 year in duration, February 2001 to February 2002.



- (3) The interim contracts contain shortage provisions that allow for reduction of deliveries for various reasons, including the need for CVP operations to be modified to meet requirements of listed species. Biological Opinions addressing the effects of the hydrologic operation of the CVP on Winter-run chinook salmon already exist. In addition, Reclamation is presently in consultation with NMFS on the effects of the CVP/State Water Project(SWP) on spring-run chinook and steelhead and has committed to complete a consultation on these species for the period of March 2001 to March 2002, and initiating consultation on long-term operations of the CVP and SWP. Reclamation has also consulted on the effects of operations of the Trinity River Division on coho salmon.
- (4) The hydrologic operations of the CVP are, and will continue to be, operated in compliance with existing and any new Biological Opinions that address the effects of the operation of the CVP on any listed species. A letter dated October 29, 1999, was provided to NMFS to confirm this commitment.
- (5) Reclamation is committed to engaging NMFS in the (b)(2) interagency team to provide recommendations on how to best dedicate and manage 800,000 acre-feet of CVP yield.
- (6) The proposed action is tiered from the CVPLA PEIS and was considered within and is consistent with the programmatic biological opinion (dated November 14, 2000) NMFS prepared on the implementation of the CVPLA.

NMFS' interpretation of the letter of October 29, 1999, mentioned in item (4) above, is that Reclamation will continue to operate the CVP in compliance with existing or soon to be completed long-term biological opinions and will not commit additional resources (e.g. water withdrawals) which would effect the environmental baseline, absent this action.

Based on the best available information, NMFS concurs with Reclamation's determination that the 1 year interim contracts, identified in the list enclosed with your letter of January 31, 2001, will not likely adversely effect winter-run chinook salmon, spring-run chinook salmon, coho salmon, or steelhead, or their designated critical habitat. By letter dated December 22, 1997, we responded, in essence, that we did not object to the proposed renewal of interim water service contracts so long as Reclamation retained the flexibility to reduce actual water deliveries as may be necessary for a variety of environmental needs. The contracts shortage provisions should allow Reclamation adequate flexibility to continue to comply with the existing Biological Opinion for Winter-run chinook salmon and the new opinions currently under development that address the effects of CVP operations on listed species. In addition, based on our interpretation of your October 29, 1999 letter, Reclamation, through this action, will not commit resources which will effect the environmental baseline for the long-term. Reclamation should be prepared to exercise its flexibility within these contracts as our agencies proceed with Endangered Species Act Section 7 consultations on CVP operations.

This concludes Section 7 consultation for Reclamation's proposed execution of 1 year water service contracts. However, if any new information becomes available indicating that listed or proposed species may be adversely affected, further consultation and/or conferencing will be necessary.

If you have any questions concerning these comments, please contact Mr. Michael Aceituno in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, California 95814. He can be reached by telephone at (916) 930-3600 or Fax at (916)930-3629.

Sincerely,



for Rebecca Lent, Ph.D.
Regional Administrator

cc: Jim Lecky, NMFS, Long Beach, CA
Wayne White, USFWS, Sacramento, CA